



MIAMI BEACH

City Commission Meeting

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
October 17, 2007

Mayor David Dermer
Vice-Mayor Matti Herrera Bower
Commissioner Simon Cruz Came in at 2:57:45 p.m.
Commissioner Michael Góngora
Commissioner Saul Gross
Commissioner Jerry Libbin
Commissioner Richard L. Steinberg

City Manager Jorge M. Gonzalez
City Attorney Jose Smith
City Clerk Robert E. Parcher

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ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's Office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

Special note: In order to ensure adequate public consideration, if necessary, the Mayor and City Commission may move any agenda item to the alternate meeting date which will only be held if needed. In addition, the Mayor and City Commission may, at their discretion, adjourn the Commission Meeting without reaching all agenda items.

CONSENT AGENDA

- PA1 Certif. of Apprec./Jimmy L. Morales, Serving As Chief Special Master. (Góngora & Steinberg)
- PA2 Certif. of Apprec./Teen Job Corps & Biscayne Point Homeowners Assoc. (Mayor/Commission)
- PA3 D-Proclamation/Police Chief Don De Lucca, Years of Dedicated Service.
- PA4 Proclamation/Fire Chief Floyd Jordan, Years of Dedicated Service.
- PA5 Proclamation/City of Miami Beach Fire Department for Achieving a Class #1 Rating.
- PA6 Certificates of Completion/Graduates of the Neighborhood Leadership Academy.
- PA7 Certif. of Apprec. & Key to the City/Dr. Morris Sunshine, Years of Service. (Mayor/Commission)
- PA8 Key to the City/Emanuele Viscuso, Promoting International Arts & Culture in CMB. (Góngora)
- PA9 Proclamation/Feinberg-Fisher K-8 Center for Their Green Initiatives. (Góngora)
- PA10 Key to the City/U.S. Coast Guard Damage Control Petty Officer Stewart. (Libbin)
- PA11 Proclamation/Miami Beach Resident & Community Institution Robert "Raven" Kraft. (Dermer)
- PA12 Proclamation/"Genius Jones" Toy Store, Outstanding Local Business. (Dermer)
- PA13 **New Item:** Certificate of Apprec./Dave Noel, Outstanding Service on Fire Department. (Góngora)
- C2A Issue RFP, Use of the Carl Fisher Clubhouse for Cultural Programming for Residents.
- C2B Issue RFP, Establish a Guaranteed Energy Savings Performance-Based Contract.
- C2C Issue RFP, Job Classification & Compensation Study.
- C2D Reject All Bids, Aluminum Picket Fence.
- C2E Issue RFQ, Establish Pre-Approved List of Professional CEI Firms ("As Needed" Basis).
- C2F Award Contracts, Electric Motor Rewind & Repair Services, \$150,000.
- C2G Issue RFP, Establish a Cultural Arts Theme Program in Altos Del Mar Park.
- C2H Reject All Bids, then, Issue RFP for Janitorial Services.

- C4A Ref: Neighborhoods/Community Affairs Committee - Rename N. Shore Youth Ctr. (Góngora)
 C4B Ref: Finance & Citywide Projects Committee - Issue RFP for Colony Theater Café.
 C4C Ref: Finance & Citywide Projects Committee - Affordable Housing Ad Valorem Tax Deferral.
 C4D Ref: Finance & Citywide Projects Committee - City's Group Health Insurance Plan.
 C4E Ref: Finance & Citywide Projects Committee - Issue RFP for Management of MBCC.
 C4F Ref: Neighborhoods/Comm. Affairs Committee - Parking for Yellow Cabs. (Góngora) **(R9C)**
 C4G Ref: Neighborhoods/Comm. Affairs Committee - Wheelchair Lift Maint. (Bower) **(R9H)**
- C6A Report: Land Use & Development Committee Meeting on September 10, 2007:
 C6B Report: Neighborhoods/Community Affairs Committee Meeting on September 19, 2007.
 C6C Report: G.O. Bond Oversight Committee Meeting on September 20, 2007.
 C6D Report: Joint Fin. & CW Projects/G.O. Bond Oversight Committee Mtg. on Sept. 20, 2007.
- C7A Approve Amendment to Lease Agreement w/ JCC, 4221 - 4229 Pine Tree Drive.
 C7B Ratify Acceptance of Donations, Cultural & Business Exchange Program w/ China. (Libbin)
 C7C Execute Amendment, Scott Rakow Youth Center - Installation of Pool Filtration System.
 C7D Elect Commissioner Jerry Libbin As Vice-Mayor.
 C7E Settlement of City Liens for 533 Collins Avenue (Council Towers).
 C7F Appoint Ramiro Inguanzo as Director of Human Resources for the City of Miami Beach.
 C7G Approve City's Preliminarily State Legislative Agenda for 2008.
 C7H Approve Purchase/Installation, POF Stations in 16th Street & 7th Street Parking Garages.
 C7I Extend Term w/ Tropical Tents, Rental of Tent Used as Golf Cart Storage at MB Golf Club.
 C7J Approve Application for Historic Ad Valorem Tax Exemption, 3190 Royal Palm Avenue.
 C7K Execute Mutual Aid Agreement w/ the City of Homestead.
 C7L Execute Mutual Aid Agreement w/ the City of Miami.
 C7M Accept Donation from Philip Levine for the MB Police Department Canine Training Facility.
 C7N Execute Memorandum Of Understanding, Use & Oversight of the E-Notify System.
 C7O Eliminate Bulb-Outs & Parking Lanes - Collins Avenue (Between 63rd & 72nd Streets).
 C7P Set Public Hearing, Grant After-the-Fact Revocable Permit - 901 Lincoln Road Mall.
 C7Q Renew Service Agreement, Collection & Disposal of Residential Waste.
 C7R Accept Sponsorships, "Sleepless Night," a Free Citywide Arts & Cultural Event.
 C7S Accept Donation from Alan & Robert Potamkin for the Bass Museum of Art.
 C7T Approve Revision of Billing Rates, Colony Theater & Byron Carlyle Theater.
 C7U Ratify Agreement w/ Spiegel LP, For "Spiegelworld."
 C7V Ratify Emergency Contract w/ Edd Helms Electric, Miami Beach Convention Center.
 C7W Set Public Hearing, Review DRB Decision for Scott Rakow Youth Center.
 C7X Approve Retroactive Assignment of Contract, Citywide Janitorial Services.

REGULAR AGENDA

- R5A **10:15 a.m. 2nd Rdg, Open/Cont.,** Amend Local Business Tax Ordinance.
 R5B **10:20 a.m. 2nd Rdg,** "Commission on the Status of Women" Name Change.(Góngora/Bower)
 R5C **10:25 a.m. 2nd Rdg,** Prohibit Fishing in Jetty Area between 29th & 33rd Streets. (Cruz)
 R5D **10:30 a.m. 2nd Rdg,** Amend No. 789, Classified Employees Salary Ordinance - CWA.
 R5E **10:30 a.m. 2nd Rdg,** Amend No. 1335, Classified Employees' Leave Ordinance.
 R5F **10:30 a.m. 2nd Rdg,** Amend No. 1613, Unclassified Employees' Leave Ordinance.
 R5G **10:30 a.m. 2nd Rdg,** Implement Provisions, 2006-2009 Collective Bargaining Agmt.
 R5H **10:35 a.m. 2nd Rdg,** Amend No. 1605, Unclassified Employees Salary Ordinance.
 R5I **10:40 a.m. 2nd Rdg,** Cultural Arts Neighborhood District Overlay - CANDO. **5/7**
 R5J **10:45 a.m. 2nd Rdg,** Designation Timeframes. **5/7**
 R5K **10:55 a.m. 2nd Rdg,** Amend Monthly Municipal Parking Rates & Special Event Flat Rates.
 R5L **11:00 a.m. 2nd Rdg,** Schedule of Water Rates & Tapping Charges.
 R5M **11:15 a.m. 2nd Rdg,** Amend Permit Fees.
 R5N **5:00 p.m. 2nd Rdg, Open/Cont.,** Commercial Use of Single Family Homes Prohibited. **5/7**
 R5O **1st Rdg,** Parking Rate Ordinance Amendments - Hybrid/ILEV Vehicle Incentives. (Steinberg)
 R5P **1st Rdg,** Regulations for Permits Issued to Street Vendors Performers & Artist Vendors.
 R5Q **10:16 a.m. 1st Rdg,** Ocean Front Height Requirements - Historic Districts. **5/7**
 R5R **10:16 a.m. 1st Rdg,** Ocean Front Height Requirements - Architectural District. **5/7**
 R5S **2:30 p.m. 1st Rdg,** Incorporate the City's New Sidewalk Cafe Ordinance.

- R5T **1st Rdg**, Amend "Agencies, Boards & Committees," - CAC & Conv. Ctr. Advisory Board.
 R5U **1st Rdg**, Procedures Governing the Issuance of Bonds." (Dermer)
 R5V **1st Rdg**, Prohibit Foods Containing Artificial Trans Fat in Vending Machines. (Steinberg)
- R7A **11:30 a.m.** Consider Appeal of a DRB Decision, 1330 West Avenue - The Waverly.
 R7B **1st Rdg**, Approve Lease Agreement w/ MDPL, 1130 Washington Avenue. **5/7**
 R7C Execute Amendment, Nautilus Right-Of-Way Infrastructure Improvement Project.
 R7D **D**-Appropriate Funds, Multipurpose Municipal Parking Facility.
 R7E Request 23rd Street Bridge Over Collins Canal Project be Removed from the MPO.
 R7F Enter into a JPA, Milling & Resurfacing Improvements Along Indian Creek Drive.
 R7G Adopt the Miami Beach Atlantic Greenway Network (AGN) Master Plan.
 R7H **5:01 p.m.** Call for Special Election, Charter Question re: Hospital District Rezoning. (Bower)
 R7I Negotiate Video & Audio System Agreement w/ New World Symphony.
 R7J Annual Evaluation of the City Manager.
- R9A Board & Committee Appointments.
 R9A1 Board & Committee Appointments - City Commission Appointments.
 R9B1 **1:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.
 R9B2 **5:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.
 R9C Refer: Designated Parking for Yellow Cabs on Bay Road. (Góngora) **Moved to Consent**
 R9D **2:00 p.m.** Discuss: Design Institute Final Report - June 2007. (Góngora)
 R9E Discuss: Resolution Endorsing the U.S. Mayors Climate Protection Agreement. (Góngora)
 R9F Discuss: Request for Funding of Security for the Holocaust Memorial. (Cruz)
 R9G **2:45 p.m.** Discuss: Reso re: Campaign Literature for Evaluation & Investigation. (Góngora)
 R9H Refer: Resolution re: Wheelchair Lift Maintenance. (Bower) **Moved to Consent**
 R9I **Noon Break**, Committee of the Whole Meeting re: City Manager's Performance Evaluation.
- R10A **Noon Break**, Executive Session: Discussion Regarding the Union Contracts.
 A City Attorney's Status Report.
 B Parking Status Report - July 2007.
 B1 Parking Status Report - August 2007.
 C Status Report: Rehabilitation & Construction Of The New Fire Station No. 2.
 D Informational Report: Federal, State, M-DC, U.S. Communities & All Existing City Contracts.
 E1 Minutes: MPO Governing Board June 28, 2007 Meeting. (Steinberg)
 E2 Minutes: Miami-Dade County League of Cities August 2, 2007 Meeting. (Bower/Steinberg)

REDEVELOPMENT AGENCY ITEMS - 10:00 A.M.

- 1A Report: Itemized Rev./Expenditures of RDA's City Ctr. District & S. Pointe, August 2007.
 2A Execute Lease Agreement, Anchor Shops - 1560 Collins Avenue.

Times based on the digital recording in the City Clerk's Office.

Meeting called to order at 9:29:08 a.m.

Supplemental Materials:

- R5S (Additional Information),
 R7D (Resolution & Supplemental Material),
 R7I (Additional Information)

Pledge of Allegiance led by Chief Jordan.

Invocation given by Robert Parcher, City Clerk.

Presentations and Awards**9:51:43 a.m.**

- PA1 Certificate Of Appreciation To Be Presented To Jimmy L. Morales For Serving As Chief Special Master For The Past Two Years.
(Requested By Commissioner Michael Góngora & Richard L. Steinberg)
(Deferred from September 5, 2007)

ACTION: Certificate presented.

Mayor Dermer introduced, Jimmy Morales, and stated that Jimmy is one of the City's great native sons; he had the privilege of attending high school with him; he was president of the class; he has been an outstanding person, an outstanding County Commissioner, he was the head of the local Democratic Party; has been an activist and a philanthropist and has also served with great distinction as the City's Special Master.

Commissioner Góngora stated that he had the pleasure of serving under Jimmy as a Special Master and recognized Mr. Morales for all his work. He officially thanked him for his services for the City of Miami Beach.

Commissioner Steinberg also thanked Jimmy for always having Miami Beach in his heart and for understanding the importance of municipal government and the constant struggle between the county and the municipalities.

Vice-Mayor Bower stated that his parents should be very proud of him as they all are who knew him for so long.

Jimmy Morales observed, as a former elected official and politician, as children and young adults were awarded earlier, and remembered when Mayor Dermer, Commissioner Steinberg and himself were growing up on the beach attending Beach High, and he thinks it is parallel that Miami Beach continues to turn out wonderful young people and is due to the continued leadership of the elected officials and the community. He feels lucky to have been born and raised on the beach, and felt lucky when two years ago he was given the opportunity to serve the people of this community as Chief Special Master.

9:34:59 a.m.

- PA2 Certificates Of Appreciation To Be Presented To Teen Job Corps For Outstanding Volunteer Work In North Shore Open Space Park And Biscayne Point Homeowners Association For Partnering With Law Enforcement In Crime Watch Efforts.
(Requested by Mayor & Commission)

ACTION: Certificates presented to Deborah Ruggiero on behalf of Teen Job Corps and Lucero Levy on behalf of Biscayne Point Homeowners Association.

Teen Job Corps Certificate Presentation

Commissioner Libbin stated that Teen Job Corps is being recognized today with a Certificate signed by the entire City Commission, for their fantastic work in cleaning the Open Space Park under the leadership of Deborah Ruggiero. Teen Job Corps are also in line for a special award at Miami-Dade County.

Deborah Ruggiero stated that she is honored and privileged to work with this group of young adults. She commended them for working under difficult conditions and added that they have done an

excellent job and the park looks fabulous. She explained that Teen Job Corp is one of the top three finalists in the "Making a Difference Community Award" through the Alliance for Human Services. This is the first of these awards and she owes it to the participants involved; she thanked the kids, the City of Miami Beach and Miami Dade County for the opportunity to work with the Teen Job Corps.

9:39:26 a.m.

Biscayne Point Homeowners Association Certificate Presentation

Commissioner Libbin stated that the Biscayne Point Homeowners Association has done an exceptional work in the community; they have been extremely active and are to be commended. They make the job of the City and the job the Police Department much easier and they should be commended for their activism.

Lucero Levy stated she is honored to be here today and thanked the City Commission; she stated that it is a wonderful partnership working with the City.

Handout or Reference Material:

1. Teen Job Corp accomplishments
2. Biscayne Point HOA Mission and Summary of Accomplishments

PA3 Proclamation To Be Presented To Police Chief Don De Lucca For His Commitment And Many Years Of Dedicated Service To The Miami Beach Police Department And The City Of Miami Beach.
(City Manager's Office)

ACTION: Item deferred.

9:58:06 a.m.

PA4 Proclamation To Be Presented To Fire Chief Floyd Jordan For His Commitment And Many Years Of Dedicated Service To The Miami Beach Fire Department And The City Of Miami Beach.
(City Manager's Office)

ACTION: Proclamation to be presented at a later time. Key to the City presented.

Mayor Dermer introduced former Fire Chief Floyd Jordan. He explained that he had the privilege to work with Floyd and added that he is an extraordinary person; he has the outmost respect for him. During his tenure as Chief, he took the Fire Department to a higher level through its modernization and expansion; he has a stellar career and stated it has been an honor and a real privilege to work with him.

Jorge Gonzalez, City Manager, added that when Chief Jordan retired as Chief of the Fire Department in September, it brought closure to an era in the Fire Service in South Florida, because he was the second African-American fire fighter in the State of Florida; and the first in South Florida, along the way through his career, he was also the first African-American to be Fire Lieutenant, Fire Captain, all the way to Fire Chief. Floyd has served as a "trail blazer" because he has accomplished his desires for this department, by making sure that there was diversity in fire ranks, he was also a mentor to fire recruits in the City's department and throughout the State. In the seven years he never worked with a better Fire Chief. He has accomplished every single one of his goals, among them, modernization of the department, becoming more diverse, providing more training, modernization of fire stations and ISO accreditation. On his last day of service as Fire Chief, he accomplished his final goal; as the Administration was notified by the Insurance Services Organization (ISO) that the City of Miami Beach received its Class I Fire Rating. He explained what ISO means from a unique perspective; there are less than fifty Departments nationwide and only nine departments in the country that shared the distinction of being Class I rated and accredited by the ISO and Miami Beach is among the nine.

He thanked the Chief for the services provided to this Commission and this community, and stated that he will miss him.

Adonis Garcia, Fire Fighter, stated that Chief Jordan has been more than a mentor to him; he still looks to him for advice and he will also miss him.

Chief Jordan stated that he is overwhelmed with gratitude and thanked the City for giving him the opportunity to serve. The past eight years have been wonderful and he recognized staff. He stated that the Fire Class I rating was a City of Miami Beach team effort which included various departments in the City, Public Works, Police Department, Communications Dispatch Unit and the City Clerk's Office. He thanked David Noel for coordinating the efforts of the City departments and explained that this accreditation will have a tremendous impact on the fire insurance rate on Miami Beach.

PA5 Proclamation To The City Of Miami Beach Fire Department For Achieving A Class #1 Rating.
(City Manager's Office)

ACTION: Proclamation presented. Item heard with item PA13. See comments under PA13.

10:48:05 a.m.

PA6 Certificates Of Completion To Be Awarded To The Graduates Of The Neighborhood Leadership Academy.
(Neighborhood Services)

ACTION: Certificates presented to: Elsa Urquiza, Ricardo Cookson, Judy Robertson, Mark Craven, Eric Lawrence, Elissa Ragone, Barry Ragone, Barbara Monteras, Yda Percal, Laura Veitia, Veitia Zwibel, Estrella Lima, Candy Lindsay, Juan Pampanas, Adriana Pampanas, James Curry, Diego Oramas, Susan Kirkland, Lida Bichel, Rosangela Diariz, Gavin Oddo, Zeita Merchant, Herman Geerling, and Hiedi Nute.

Jorge Gonzalez, City Manager, gave informational background on the program and stated that they are recognizing the 14th graduating class. He added that there are almost 530 graduates of the program to date and read the names of the graduates into the record. He added that this free program give students an opportunity to get a behind the scenes look as how government is run, they meet department heads, have hands-on experience and develop a better understanding and feel for what their government is doing on their behalf, and from this program many individuals are inspired to serve in committees and even become potential candidates. He thanked Caroline Defreze and the Neighborhood Services Department and all the department heads who volunteered their time in conducting their presentations.

Mark Craven spoke.

Commissioner Libbin added that he has heard about this program and has also heard that some individuals are interested in daytime classes.

10:35:39 a.m.

PA7 Certificate Of Appreciation And Key To The City To Be Presented To Dr. Morris Sunshine For His Many Years Of Service As A Member Of The Miami Beach Marine Authority, For Serving On Numerous City Boards, Committees And Task Forces, And Advocating Residents' Rights To Peace And Tranquility Through His Tireless Work On The City's Noise Ordinance.
(Requested by Mayor Dermer & Commission)

ACTION: Certificate and Key to the City presented.

Mayor Dermer stated that Dr. Sunshine has been a great advocate on the issues of noise for many years in the south beach section and has been stalwart in his advocacy. He was instrumental in making the issue of noise part of the charter and is a leading expert in noise. He thanked him on behalf of the City for his efforts and presented him with a Key to the City.

Commissioner Gross added that Dr. Sunshine has been the embodiment of a civic activist and his contributions are not just limited to noise, but he has also been one of the strongest fighters for the quality of life in South Pointe, he has been involved in controlling overdevelopment, extremely active with the Savoy Hotel and the Old Arlington site issues and others.

Commissioner Libbin added that Dr. Sunshine has also been very active as a member in the Marine Authority Board for many years, and stated that his activism has been stellar.

Commissioner Góngora also congratulated Dr. Sunshine.

Vice-Mayor Bower added that Dr. Sunshine protects the residents of Miami Beach and voices their opinion.

Commissioner Steinberg stated that Dr. Sunshine is a voice for the community and his tireless efforts to make the City better should be commended.

Dr. Morris Sunshine stated he has two passions, boats and noise; he explained that some day they will talk about anchorage for the homeless vessels out there; he stated that he is pleased to have played a small part in introducing protection against excessive noise into the City Charter, into the Citizen's Bill of Rights. He added that there are few City Charters that contain a Citizen's Bill of Rights, and there are no city charters to his knowledge that contain a right of protection against excessive noise, which is related to the right of privacy. The majority of the residents in the City approved the referendum, and that would not have happened without the collaboration and support of this City Commission, Jose Smith, former City Commissioner, and without the support of Steven Zack and Victor Diaz. He also thanked Jean Olin for her pro bono legal advice.

10:09:13 a.m.

PA8 Key To The City To Be Presented To Emanuele Viscuso For Promoting International Arts And Culture In Miami Beach.

(Requested by Commissioner Góngora)

ACTION: Key to the City presented.

Commissioner Góngora introduced Emanuele Viscuso and recognized him for being a true visionary, a man of talents ranging from sculpture to music, painting, poetry, architecture and literature; his love of the arts is overwhelming and he has decided to make Miami Beach his home. In 2006 he founded the Sicilian Film Festival to showcase the work of Sicilian directors and movie about Sicily and its history. Emanuele is involved with Unicorn Children's Foundation, Cystic Fibrosis, Big Brothers Big Sisters and Ayuda, and due to his contributions in promoting the arts in Miami Beach, he awarded Mr. Viscuso with the Key to the City.

Emanuele Viscuso explained that he spent half a century in Italy, has lived in Miami Beach for seven years and is very proud of this presentation. He thanked his family for bringing him here. He also introduced the Chief of Staff representing the Italian Parliament of Honorable Ferrigno to present an award.

Dario Tamborelo, Chief of Staff of Congressman Ferrigno, stated that Mr. Vescuso epitomizes the best of Sicily. He read a message from Italy's Congressman Salvatore Ferrigno and presented Emanuele Viscuso with a medal.

9:30:26 a.m.

PA9 Proclamation To Be Presented To Feinberg-Fisher K-8 Center For Their Green Initiatives.

(Requested by Commissioner Michael Góngora)

ACTION: Proclamation presented.

Commissioner Góngora stated that this program started four years ago; when students from K-8 Center established a recycling program under the leadership of Ms. Cade, and students began bringing their recycles to the school for proper disposal. Feinberg Fisher also participates in the Dream and Green School Project, a Florida nonprofit corporation pro conservation of environment. He added that students are writing letters as well to other elementary schools in their region encouraging other principals to join their green efforts. This week Feinberg Fisher celebrated Energy Week and the students have been nicknamed "earth warriors." This is a true example of leadership and is a great honor to proclaim Feinberg Fisher Day in the City of Miami Beach.

Kathleen Cade, Math Science Resource teacher, spoke.

PA10 Key To The City To Be Presented To Miami Beach Resident, U.S. Coast Guard Damage Control Petty Officer Stewart, In Appreciation For His Military Service In Operation Iraqi Freedom.

(Requested by Commissioner Jerry Libbin)

ACTION: Deferred.

9:46:11 a.m.

PA11 Proclamation To Be Presented To Miami Beach Resident And Community Institution Robert "Raven" Kraft.

(Requested by Mayor David Dermer)

ACTION: Proclamation presented.

Mayor Dermer introduced the "Raven." He read the proclamation for the record and proclaimed this day 'Robert "Raven" Kraft Day.'

Robert "Raven" Kraft spoke.

9:42:12 a.m.

PA12 Proclamation To Be Presented To "Genius Jones" Toy Store, An Outstanding Local Business.

(Requested by Mayor David Dermer)

ACTION: Proclamation presented.

Mayor Dermer read the proclamation for the record. He recognized Daniel Crown and his wife Jan Brito for their contributions to the Miami Beach community and declared today "Genius Jones Day."

Daniel Crown spoke.

10:19:29 a.m.**New Item:**

PA13 Certificate Of Appreciation To Be Presented To Dave Noel For His Outstanding Services With The Fire Department.

ACTION: Item heard in conjunction with PA5. Certificate presented.

Jorge Gonzalez, City Manager, stated that Dave Noel, Fire Division Chief, volunteered to coordinate efforts in putting together the application needed to receive accreditation from ISO, and he thanked him publicly for taking on that responsibility. There are only nine departments of the thousands of departments throughout the country, and now Miami Beach is an ISO Class I accredited city, which translates to dollars and sense; the way the property insurance carriers calculate insurance and insurance risk, as properties get assessed for property insurance, it takes into consideration the ISO rating of the community, and to have an ISO Class I, he would translate it into tax relief for residents and business owners. Dave led the effort and accomplished it, and he recognized him and all the men and women who made this accomplishment possible.

Dave Noel, Fire Division Chief, thanked Jorge Gonzalez, City Manager, Rob Roberts, from ISO, Michael Aller, Mike Alvarez, Public Works, Bertus Dorrestyn, GIS Manager, Public Works, Janice Davis, George Navarro, Police Chief, Jennifer Hall Jenkins, Chris Cardenas, from IT, and to all the fire fighters for their cooperation.

Edward Del Favero, Assistant Fire Chief, spoke.

Adonis Garcia, Fire Fighter, thanked Jorge Gonzalez, City Manager, for his support.

New Item**10:29:34 a.m.**

PA14 Certificate Of Appreciation To Be Presented To John Aushra, President Of The Kernwal Corp., Co-Op, For Allowing The Use Of His Building's Roof Space As The Method For The New Rainwater Collection System For Victory Gardeners To Water Their Garden.
(Vice-Mayor Bower)

ACTION: Certificate presented.

Vice-Mayor Bower introduced John Aushra and gave background information on the Victory Garden Rain Barrel event and recognized Rene Sabarria and Claudia Sullivan, co-chairs of the Victory Garden, the Organic Gardening Magazine and AVEENO for their sponsorship, and the City of Miami Beach Parks and Recreation Department, for working together to better the community.

John Aushra, President of the Kernwal Corp., Co-Op., spoke.

Handout or Reference Materials:

1. Information RE: Community Garden/Rain Barrel event
2. Email from Yvonne Sepulveda to Lilia Cardillo RE: Certificate of Appreciation to John Aushra.

New Item:**10:47:15 a.m.**

Commissioner Steinberg extended his condolences on behalf of the City Commission to the Gonzalez's family on the death of Alex Gonzalez.

10:56:00 a.m.**New item:**

PA15 Honorary Life Membership Certificate To Be Presented To Mayor David Dermer By The Miami Beach Historical Association.

ACTION: Certificate presented.

Jorge Gonzalez, City Manager, introduced the item.

Dr. Abraham Lavender, representing the Miami Beach Historical Association, (MBHA) stated that about eight years ago MBHA started educating people on the history of Miami Beach and they encourage the City to preserve historical records. There is no one who has worked more with the MBHA than Mayor David Dermer and it is with great pleasure that on behalf of the MBHA they presented him with an "Honorary Life Membership" Certificate.

Mayor Dermer stated that the work the association is doing is extraordinarily important, he thanked Robert Parcher, City Clerk, and Liliam, for their hard work and stated that it is vital that these records are preserved and that people learn from the history of the City, as history seems to repeat itself. Miami Beach is a vibrant and incredible City, and is not only the history of the structure of the City, which has a great important but it is the people that should be recognized. Miami Beach has influenced the history of world events; from WWII events, to Churchill writing his speech here; and he is happy that as a historian, Dr. Lavender is here to tell it.

Dr. Lavender added that MBHA celebrated the City's 92nd Anniversary this year with an exhibit of historical photographs on the 4th floor Lobby; he thanked the City Commission, Jorge Gonzalez, City Manager and the City Clerk's Office for their support.

CONSENT AGENDA

ACTION: Motion made by Commissioner Gross to approve the Consent Agenda; seconded by Vice-Mayor Bower; Voice vote: 6-0; Absent: Commissioner Cruz.

C2 - Competitive Bid Reports

- C2A Request For Approval To Issue A Request For Proposals (RFP) For The Use Of The Carl Fisher Clubhouse For Cultural Programming For Residents Of The City Of Miami Beach.
(Asset Management/Tourism & Cultural Development)

ACTION: Request authorized. Gus Lopez to issue RFP. Ana Cecilia Velasco and Max Sklar to handle.

12:08:50 p.m.

- C2B Request For Approval To Issue A Request For Proposals (RFP) For The Establishment Of A Guaranteed Energy Savings Performance-Based Contract.
(City Manager's Office)

ACTION: Item separated for discussion by Commissioner Góngora. Request authorized. Motion made by Commissioner Góngora; seconded by Commissioner Libbin; Voice vote: 6-0; Absent: Commissioner Cruz. Gus Lopez to issue RFP. Robert Middaugh to handle.

11:54:50 a.m.

- C2C Request For Approval To Issue A Request For Proposals (RFP) For A Job Classification And Compensation Study.
(Human Resources)

ACTION: Item separated for discussion by Commissioner Libbin. Discussion held. Request authorized. Motion made by Vice-Mayor Bower to issue the RFP; seconded by Commissioner Gross; Voice vote: 6-0; Absent: Commissioner Cruz. Gus Lopez to issue the RFP. **Ramiro Inguanzo to handle.**

Commissioner Libbin asked that this item be deferred because of future vacancies and the need to hold a Commission Retreat to bring new commissioners up to speed and build consensus before authorizing the study.

Motion made by Commissioner Libbin; seconded by Commissioner Góngora to defer this item to the January 2008 Commission Meeting when the newly elected Commission is in place. Discussion held. Voice-vote: 2-4; Opposed: Mayor Dermer; Vice-Mayor Bower and Commissioners Gross and Steinberg; Absent: Commissioner Cruz. Motion failed.

Motion made by Vice-Mayor Bower to issue the RFP; seconded by Commissioner Gross; Voice vote: 6-0; Absent: Commissioner Cruz. Gus Lopez to issue the RFP.

C2D Request For Approval To Reject All Bids Pursuant To Invitation To Bid (ITB) No. 43-06/07, For Aluminum Picket Fence.

(Parks & Recreations)

ACTION: Request Authorized. Gus Lopez to notify bidders.

City Clerk's note: Marjory Stoneman Douglas Park tot-lot

C2E Request For Approval To Issue A Request For Qualifications (RFQ), For The Establishment Of A Pre-Approved List Of Professional Construction Engineering And Inspection Services (CEI) Firms To Provide Various CEI Services On An "As Needed" Basis.

(Public Works)

ACTION: Request authorized. Gus Lopez to issue the RFQ. Fred Beckmann to handle.

C2F Request For Approval To Award Contracts, Pursuant To Invitation To Bid (ITB) No. 10-06/07, For Electric Motor Rewind And Repair Services, To Condo Electric Motor Repair, Corp., Electrix USA, Inc., And Taw Miami Service Center, Upon Successful Negotiations by The Administration, For An Annual Estimated Amount Of \$150,000.

(Public Works)

ACTION: Request authorized. Fred Beckmann to handle.

11:04:22 a.m.

C2G Request For Approval To Issue A Request For Proposals (RFP) For Establishing A Cultural Arts Theme Program In Altos Del Mar Park.

(Tourism & Cultural Development)

ACTION: Item separated for discussion by Commissioner Gross. Request authorized as amended. Motion made by Commissioner Gross to add throughout the RFP "*and/or other passive recreational activities in the park*" and "*organization*" will be changed to "*proposer*"; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent: Commissioner Cruz. Gus Lopez to issue RFP. Max Sklar to handle.

Amendment

Search and replace language throughout the RFP to add *and/or other passive recreational activities* Substitute the word "*organization*" with "*proposer*."

End

Commissioner Gross introduced the item and suggested broadening the language in the RFP to obtain better response, and not limit the Altos del Mar Park specifically to cultural arts programming.

Discussion held.

Commissioner Góngora requested moving forward with the RFP and added that the item has been discussed at the Historic Preservation Board, Art in Public Places and other committee meetings and has been unanimously approved to be a cultural themes park.

Commissioner Steinberg cited a sample of what the Commission could face if the RFP is broadened, and asked the Legal Department if the City Commission would have the flexibility to make decisions that are best for the community or adhere to the RFP criteria.

Jose Smith, City Attorney, explained that it would depend on the language of the RFP, if the City Commission is acting reasonably and if it is based on a rational basis.

Daniel Veitia, Normandy Shores Neighborhood Association, spoke.

Discussion continued.

Jorge Gonzalez, City Manager, stated that Altos del Mar is a public park, which is governed by Article VI in Save Our Parks and other referendum requirements if the park was to be put into commercial use. He suggested perhaps adding in the language *"soliciting an RFP to do a cultural focused program and/or other passive recreational use of the park."*

Discussion continued.

Jorge Gonzalez, City Manager, recommended searching and replacing certain words throughout the RFP by adding *"and/or other passive recreational activities."* He also suggested substituting the word *"organization"* to *"organization, an individual or any proposer."*

Motion made by Commissioner Gross to add throughout the RFP "and/or other passive recreational activities in the park" and "organization" will be changed to "proposer"; seconded by Commissioner Steinberg.

Commissioner Libbin asked if the word *"not for profit"* should be added.

Vice-Mayor Bower requested adding the word "not for profit."

Commissioner Gross stated that the word "not for profit" is not a requirement; and others should not be precluded from responding to the RFP.

Discussion held.

Dr. Barry Ragone spoke.
Connie Gordon spoke.

Mayor Dermer commented that he is glad to have had this discussion, because there was a moment in time when there was a strong push to sell this land and make it private, and there was an active citizenry that fought back against it that helped this park happen, and now this Commission is at a level where it is debating what can be best for the public good as a whole rather than which private interests are going to divide the lots, and added that we have come a long way with this issue.

C2H Request For Approval To Reject All Bids Pursuant To Invitation To Bid (ITB) No. 30-06/07, For Janitorial Services, And Should The Mayor And City Commission Approve The Rejection Of All Bids, Authorize The Issuance Of A Request For Proposals (RFP) For Janitorial Services.
(Public Works)

ACTION: Request authorized. Gus Lopez to notify bidders.

C4 - Commission Committee Assignments

- C4A Referral To The Neighborhoods/Community Affairs Committee - Discussion Regarding Renaming Of The North Shore Youth Center.

(Requested by Commissioner Michael Góngora)

ACTION: Referred. Vivian Guzman to place on the committee agenda. Kevin Smith to handle.

- C4B Referral To The Finance And Citywide Projects Committee - Discussion Regarding The Issuance Of A Request For Proposals (RFP) For The Colony Theater Café.

(Asset Management)

ACTION: Referred. Patricia Walker to place on the committee agenda. Ana Cecilia Velasco to handle.

- C4C Referral To The Finance And Citywide Projects Committee - Discussion Regarding Implementation Of The Affordable Housing Ad Valorem Tax Deferral Approved By The 2007 Florida Legislature.

(Economic Development)

ACTION: Referred. Patricia Walker to place on the committee agenda. Kevin Crowder to handle.

- C4D Referral To The Finance And Citywide Projects Committee - Discussion Regarding The City's Group Health Insurance Plan.

(Human Resources)

ACTION: Referred. Patricia Walker to place on the committee agenda. Ramiro Inguanzo to handle.

- C4E Referral To The Finance And Citywide Projects Committee - Discussion Regarding The Issuance Of A Request For Proposals (RFP) For The Management And Operation Of The Miami Beach Convention Center.

(Tourism & Cultural Development)

ACTION: Referred. Patricia Walker to place on the committee agenda. Max Sklar to handle.

- C4F Referral To The Neighborhoods/Community Affairs Committee a Discussion Regarding Designated Parking For Yellow Cabs On Bay Road.

(Requested by Commissioner Michael Góngora)

ACTION: Item R9F moved to Consent Agenda as C4F. **Item referred.** Vivian Guzman to place on committee agenda. **Saul Frances to handle.**

- C4G ~~Discussion And~~ Referral To The Neighborhoods/Community Affairs Committee A Resolution Regarding Wheelchair Lift Maintenance.

(Requested by Vice-Mayor Matti Herrera Bower)

ACTION: Item R9H moved to Consent Agenda as C4G. **Item referred.** Vivian Guzman to place on committee agenda. **Thomas Velazquez to handle.**

C6 - Commission Committee Reports

C6A Report Of The Land Use And Development Committee Meeting On September 10, 2007: **1)** Demolition Evaluation Criteria - An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 118, "Administration And Review Procedures," Article X, "Historic Preservation," Division 3, "Issuance Of Certificate Of Appropriateness/Certificate To Dig/Certificate Of Appropriateness For Demolition," By Amending Section 118-562 To Clarify And Update Certain Procedures And Requirements Pertaining To The Issuance Of A Certificate Of Appropriateness For Demolition, And By Amending Section 118-564 To Modify The Evaluation Criteria For A Certificate Of Appropriateness For Demolition; Providing For Repealer, Codification, Severability And An Effective Date; And **2)** Discussion Regarding The City's 23rd Street Bridge Project.

ACTION:**Item No. 1:**

Motion: (3-0) Send proposed Ordinance back to Planning Board to clarify demolition criteria and waiver criteria not applicable to total demolition.

City Clerk's note: Jorge Gomez to handle.

The revised Ordinance going back to the Planning Board will:

1. Replace the current language pertaining to 'feasibility study' with the requirement of a structural evaluation.
2. Add an affirmative statement that 'financial feasibility studies' are not a requirement.

Also, the LUC requested further study regarding the removal of minimum requirements for demolition from the variance provisions of the HP Ordinance.

Item No. 2:

Motion: (2-0) - Due to the cost of this project being disproportionate to the benefits, the Committee recommends that the project be discontinued at this time and that other projects (eligible for Road Impact funding) be pursued. The Committee recommended better signs, bike paths improvements, etc.

C6B Report Of The Neighborhoods/Community Affairs Committee Meeting On September 19, 2007: **1)** Discussion Regarding Legislation Proposed By La Gorce Neighbors; **2)** Discussion Regarding The Ordinance Revising The Regulation And Administration Of Sidewalk Cafes; **3)** Discussion Regarding Utilizing The 2216 Park Avenue (Former Delta House) As A Housing Facility For The Miami City Ballet; **4)** Discussion Regarding Conditions Of The Boardwalk; **5)** Request For Approval Of The Atlantic Greenway Network Master Plan; **6)** Discussion On The Process For Administering The Powers And Duties With Respect To The Community Benefit Fund For Performing Arts; **7)** Discussion Regarding The Placement Of A Bust Sculpture Of Dr. Peritz Scheinberg At Flamingo Dr. Park; **8)** Discussion Regarding A Proposed Amendment To Section 86-141-175, Entitled Nonprofit Vending And Distribution; To Liberalize Vending In The Ocean Drive Corridor To Include Artist Vendors/Street Performers; **9)** Discussion Regarding An Ordinance Amending Chapter 10 Of The Miami Beach City Code Entitled "Animals," By Amending Sections 10-1 Through 10-16; Providing For Repealer, Severability, Codification, And An Effective Date; **10)** Discussion Regarding North Bay Road And 23rd Street Park; **11)** Discussion Regarding A Resolution Affirming A Design Review Board Decision Pertaining To DRB File No. 9024, Located At 1330 West Avenue; And **12)** Discussion Regarding An Ordinance Amending Chapter 82 Of The Miami Beach City Code, Entitled "Public Property," By Amending Article I, Entitled "In General," By Amending Section 82-4 – 82-5, Entitled "Reserved," To Prohibit Foods Containing Artificial Trans Fat In Vending Machines on City Property.

ACTION:

Item No. 1:

Item deferred, without discussion, to the next meeting of the Neighborhoods/Community Affairs Committee.

Item No. 2:

The Committee moved with a vote of two in favor (Commissioner Steinberg and Vice-Mayor Bower) and one against (Commissioner Góngora) to bring the item to the full commission incorporating the following:

- a) Allow the prorating of the fees to monthly
- b) Allow sidewalk cafes to leave tables set out overnight with the condition that they are open for business by 11am

City Clerk's note: See Agenda item R5S

Item No. 3:

The Committee unanimously moved to defer this item indefinitely.

Item No. 4:

The Committee moved to have the call boxes removed, gather information as to the cost to replace the system on the boardwalk and add call boxes to the beachwalk, and ask IT to consider the possibility of a WIFI alternative. Additionally, the Police Department is to have the security guards monitor and report to public works any lighting outages for quick response, and work with the appropriate departments to maintain the landscaping.

City Clerk's note: Chief Noriega, Kevin Smith, Gladys Acosta and Robert Halfhill to handle.

Item No. 5:

The Committee unanimously moved to take this item to the Planning Board allowing it to move directly to the full City Commission if the Planning Board endorses the plan.

City Clerk's note: See R7G.

Item No. 6:

The Committee unanimously moved to transfer responsibility to the Cultural Arts Council.

City Clerk's note: See Agenda item R5T

Item No. 7:

The Committee moved, unanimously, to take this to the public hearing and discuss at the Commission meeting.

City Clerk's note: Max Sklar to handle.

Item No. 8:

The Committee unanimously moved to take this item to the full City Commission.

City Clerk's note: See Agenda item R5P

Item No. 9:

Item deferred, without discussion, to the next meeting of the Neighborhoods/Community Affairs Committee.

Item No. 10:

Item deferred, without discussion at the request of Commissioner Góngora, to the next meeting of the Neighborhoods/Community Affairs Committee.

Item No. 11:

No action was taken on this item.

Item No. 12:

The committee moved to recommend the ordinance and to expand it by including the beach concessions and the convention center requiring any new contracts or renewals to adhere to the ordinance.

City Clerk's note: See Agenda item R5V

- C6C Report Of The G.O. Bond Oversight Committee Meeting On September 20, 2007: **1)** Project Status Report: A. Update On Fire Station No. 2; **2)** Project Status Report - South Beach Projects; **3)** Project Status Reports - Projects In Construction; And **4)** Informational Items: A. Updated Calendar Of Scheduled Community Meetings; B. Remaining 2007 Meeting Schedule.

ACTION:

Item No. 1:

This project is close to completion. Inspectors have begun to do final inspections and the contractor work is primarily clean-up. Substantial completion is expected by Mid-November, and firefighters can then move in from building A.

The EOC is almost complete as well, as far as CIP is concerned. Additional work, requested by the EOC Director, will continue, but that is mostly IT. The testing exercise to make sure all equipment is operational, will take place in the spring of 2008.

Item No. 2:

Project status reports for all G.O. Bond-funded projects were presented in the agenda packet. Not all projects were discussed.

City Clerk's note: Projects: Belle Isle, Lummus ROW, Flamingo, South Pointe Park, Venetian Islands, and South Pointe Streetscape

Item No. 3:

City Clerk's note: Action not listed in the report

Item No. 4:

City Clerk's note: Action not listed in the report

- C6D Report Of The Joint Finance And Citywide Projects Committee And G.O. Bond Oversight Committee Meeting On September 20, 2007: **1)** Discussion Regarding Review Of The Proposed Capital Budget.

ACTION:

Item No. 1:

The Committee reviewed the Proposed 2007/08 Capital Budget.

C7 - Resolutions

- C7A A Resolution Approving A Fifth Amendment To That Certain Amended And Restated/Consolidated Lease Agreement By And Between The City Of Miami Beach And The Miami Beach Jewish Community Center, Inc. (JCC), For A Parcel Of Land And Facilities Located At 4221 - 4229 Pine Tree Drive, Miami Beach, Florida, Amending The Agreement To Extend The Time Period For The JCC To Obtain A Final Building Permit And Extend The Time Period For Commencement Of Construction For The Proposed Improvements; And Such Other Changes As May Be Approved By The City Commission Subject To Final Review And Approval By The City Manager And City Attorney.
(Asset Management)

ACTION: Resolution No. 2007-26666 adopted as amended. Ana Cecilia Velasco to handle.

Jorge Gonzalez, City Manager, stated as listed in the Agenda Corrections: The Now, Therefore clause is being revised to: "..... JCC to obtain a final building permit to be concurrent with the Design Review Board Order, or June 21, 2009, whichever occurs earlier, and extending the time....."

City Clerk's Note: Resolution distributed on the dais.

Handout or Reference Materials:

1. Resolution distributed at the dais

- C7B A Resolution Ratifying The Acceptance Of Donations Made To The City For The City Of Miami Beach's Cultural And Business Exchange Program With China.
(Requested by Commissioner Jerry Libbin/City Attorney's Office)

ACTION: Resolution No. 2007-26667 adopted.

- C7C A Resolution Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 1, To The Pre-Construction Services Agreement With KVC Constructors, Inc, Dated December 6, 2006, For The Scott Rakow Youth Center, In The Negotiated Amount Of \$227,000 Plus A Contingency Of \$11,350, Previously Appropriated, For The Installation Of The Pool Filtration System.
(Capital Improvement Projects)

ACTION: Resolution No. 2007-26668 adopted. Jorge Chartrand to handle.

- C7D A Resolution Electing Commissioner Jerry Libbin As Vice-Mayor For A Term Commencing On November 1, 2007, And Terminating On November 7, 2007, Or If A Runoff Election Is Held, Terminating On November 21, 2007.
(City Clerk's Office)

ACTION: Resolution No. 2007-26669 adopted. Robert Parcher to handle.

- C7E A Resolution Providing For The Subordination Of City Liens And For The Settlement Of City Liens On Real Property Located At 533 Collins Avenue (Council Towers), Miami Beach, Florida, Resulting From Special Master Case Nos. JB00000604 And JB00000605, And Providing That Said Liens, In The Amount Of \$120,639.98 Plus Interest, Be Waived Upon Completion Of Elevator Repairs; And Further Authorizing The City Manager To Take Such Action(s) And Execute Any And All Necessary Documents To Complete Such Lien Releases And Settlement.
(City Manager's Office)

ACTION: Resolution No. 2007-26670 adopted. Robert Middaugh and Robert Parcher to handle.

12:09:24 p.m.

- C7F A Resolution Consenting To The Appointment Of Ramiro Inguanzo As The Director Of Human Resources For The City Of Miami Beach.
(City Manager's Office)

ACTION: Resolution No. 2007-26671 adopted via the Consent Agenda. Robert Parcher to handle.

Jorge Gonzalez, City Manager, formally introduced Ramiro Inguanzo as Human Resources Director, and gave a background of his accomplishments.

Handout or Reference Material

1. Oath

11:39:20 a.m.

- C7G A Resolution Approving The City's Preliminary State Legislative Agenda For The 2008 Session Of The Florida Legislature.
(Economic Development)

ACTION: Item separated for discussion by Commissioner Gross. Resolution No. 2007-26672 adopted. Motion made by Commissioner Gross; seconded by Vice-Mayor Bower; Absent: Commissioner Cruz; Voice vote: 6-0. **Kevin Crowder to handle.**

Commissioner Libbin stated that he has asked the City Manager to get some information for him regarding something that could be revolutionary and that is, instead of calculating tax on an Ad Valorem tax basis, to look at the possibility of calculating on a square foot basis. **Kevin Crowder to handle.**

Commissioner Gross asked what the impact will be on the budget if the City supports capping property tax for commercial and non-homesteaded property and its impact on the City. **Kevin Crowder to handle.**

The issue of capping property tax for commercial and non-homesteaded property and its impact on the City and the issue of perhaps using square footage to calculate property tax was referred to the Finance and Citywide Projects Committee. **Patricia Walker to place on the committee agenda. Kathie Brooks to handle.**

Commissioner Libbin asked what the process is for making changes to the Legislative Agenda.

Jorge Gonzalez, City Manager, stated that this is a preliminary agenda and sometime around December or January the lobbyists will be meeting with the Mayor and each Commissioner.

- C7H A Resolution Approving Pursuant To Section 2-367 (D) Of The Miami Beach City Code, The Sole Source Purchase And Installation Of Pay On Foot (POF) Stations In The 16th Street And 7th Street Parking Garages From Consolidated Parking Equipment, Inc., In The Estimated Amount Of \$400,000.

(Parking Department)

ACTION: Resolution No. 2007-26673 adopted. Saul Frances to handle.

- C7I A Resolution Authorizing The Administration To Extend The Current Term With Tropical Tents, Inc., For The Continued Rental Of The Custom Tent Currently Being Used As A Temporary Golf Cart Storage And Charging Facility At The Miami Beach Golf Club; Said Extension On A Month To Month Basis, Commencing In January Of 2008, Until The New Cart Barn Construction Is Complete (Anticipated To Be The First Quarter Of 2009), At An Estimated Cost Of \$60,000.

(Parks & Recreation)

ACTION: Resolution No. 2007-26674 adopted. Kevin Smith to handle.

11:53:19 a.m.

- C7J A Resolution Recommending Approval Of A Preconstruction Application For Historic Ad Valorem Tax Exemption For A Single-Family Property At 3190 Royal Palm Avenue, And Authorizing The Miami-Dade County Property Appraiser's Office To Grant Said Tax Exemption For The City's Portion Of Ad Valorem Property Taxes For Qualifying Improvements To The Subject Property Following Substantial Completion Of The Project And Compliance With Certain Conditions.

(Planning Department)

ACTION: Item separated for discussion by Vice-Mayor Bower. Motion made by Vice-Mayor Bower; seconded by Commissioner Góngora; Voice vote: 6-0; Absent: Commissioner Cruz.
Resolution No. 2007-26675 adopted. Jorge Gomez to handle.

Vice-Mayor Bower commended Jorge Gonzalez, City Manager, for taking this action.

Handout or Reference Material

1. Exhibit "A" Single-Family Residence – 3190 Royal Palm Avenue – Historic Structure – Designation Report
2. Exhibit "B" Order of the Historic Preservation Board

- C7K A Resolution Authorizing The City Manager And City Clerk To Execute A Mutual Aid Agreement With The City Of Homestead, Florida For The Purpose Of Coordinating Law Enforcement Planning, Operations, And Mutual Aid Benefit Between The City Of Miami Beach And The City Of Homestead.

(Police Department)

ACTION: Resolution No. 2007-26676 adopted. Chief Noriega to handle.

- C7L A Resolution Authorizing The City Manager And City Clerk To Execute A Mutual Aid Agreement With The City Of Miami, Florida For The Purpose Of Coordinating Law Enforcement Planning, Operations, And Mutual Aid Benefit Between The City Of Miami Beach And The City Of Miami.

(Police Department)

ACTION: Resolution No. 2007-26677 adopted. Chief Noriega to handle.

- C7M A Resolution Accepting The Donation Of \$2,000 From Mr. Philip Levine, To Be Utilized For The Construction And Upgrade Of The Miami Beach Police Department Canine Training Facility Located At Pine Tree Park Located At 4499 Pine Tree Drive.
(Police Department)

ACTION: Resolution No. 2007-26678 adopted. Chief Noriega to handle.

Commissioner Libbin recognized and thanked Mr. Philip Levine for his donation.

- C7N A Resolution Authorizing The Mayor And The City Clerk To Execute A Memorandum Of Understanding With The State Attorney's Office, Public Defender's Office, Clerk Of Courts, Administrative Office Of The Courts, And Miami-Dade County Association Of Chiefs Of Police Establishing The Terms For The Use And Oversight Of The E-Notify System.
(Police Department)

ACTION: Resolution No. 2007-26679 adopted. Chief Noriega to handle.

11:23:13 a.m.

- C7O A Resolution Approving The Elimination Of Bulb-Outs And Parking Lanes On Collins Avenue, Between 63rd And 72nd Streets, And The Reconfiguration To Three (3) Traffic Lanes, Based On The Beneficial Traffic Impacts Thus Derived, And An Agreement By The Florida Department Of Transportation (FDOT) To Fund The Restoration Of The Third Traffic Lane Pursuant To The Completion Of The 63rd Street Bridge Rehabilitation Project.
(Public Works)

ACTION: Item separated for discussion by Commissioner Gross. Resolution No. 2007-26680 adopted as amended. Motion made by Commissioner Gross to approve the resolution and nominate Commissioner Steinberg as the liaison to negotiate the flex-lane and work with the Administration and FDOT including the hours of operation and meetings with the community to get public input; the Commission directed the Administration to take appropriate enforcement actions; and include project beautification; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent: Commissioner Cruz. **Fred Beckmann to handle.**

Amendment

Commissioner Steinberg to serve as liaison to negotiate flexible lanes and work with Administration and FDOT regarding hours of operation and community input

Administration is directed to take appropriate enforcement actions

Include language regarding beautification and timing when the bridge is not operational

End

Commissioner Gross introduced the item.

Commissioner Steinberg suggested input from the community, flexible lanes and asking FDOT to invest additional funds in beautifying the right-of-way.

Discussion held.

Robert Middaugh, Assistant City Manager, explained that modifications have been done to the package to reflect some of the issues of concerns; language has been added regarding beautification and FDOT has no problems with that; but in regards to the third lane FDOT may ask the City to show that it will not impact the flow of traffic.

Discussion continued.

Daniel Veitia, Normandy Shores Neighborhood Association, spoke.

Motion made by Commissioner Gross to approve the resolution and nominate Commissioner Steinberg as the liaison to negotiate the flex-lane and work with the Administration and FDOT including the hours of operation and meetings with the community to get public input.

Robert Middaugh, Assistant City Manager, asked direction from the Commission to authorize the Administration to take appropriate enforcement actions.

Commissioner Gross stated "absolutely."

Discussion continued.

Jorge Gonzalez, City Manager, stated that the third lane will be a flexible lane, a parking lane which will be temporarily used as travel or a travel lane which will sometimes be used for parking.

Commissioner Steinberg expressed two concerns: 1) include language regarding beautification and 2) the timing when the bridge is not operational.

Fred Beckmann, Public Works Director, announced that the latest information from FDOT is that potentially they will not need to actually close the bridge.

C7P A Resolution Setting A Public Hearing On ~~October 17, 2007~~ December 12, 2007, To Consider Granting An After The Fact Revocable Permit In Favor Of Sterling Building, Inc., As The Applicant And Owner Of Property Located At 901 Lincoln Road Mall Miami Beach, Florida, For Two (2) Architectural Entrance Tower Encroachments Equal To A Total Area Of 3.56 Sq. Ft, On The City-Owned Right Of Way On Lincoln Road Mall, Adjacent To Said Property.
(Public Works)

ACTION: Resolution No. 2007-26681 adopted. Public hearing scheduled for December 12, 2007. Robert Parcher to notice. Lilia Cardillo to place on the City Commission Agenda. Fred Beckmann to handle.

City Clerk's note: See noticing requirements:

1. A nonrefundable application fee and a mailing fee in the amount specified in appendix A. Additionally, the applicant shall pay all costs of advertising connected with the request. For applications involving uses of city property that have occurred or are on-going at the time of application the application fee shall be as specified in appendix A.
2. The city shall provide mail notice of the public hearing at least 15 days prior to the hearing to owners of land lying within 375 feet of the subject property. The notice shall indicate the date, time and place of the hearing and the nature of the request and shall invite written comments and/or participation at the hearing.

- C7Q A Resolution Authorizing The Renewal Of The Service Agreement With Waste Management Inc. Of Florida, For A Term Of One Year, Commencing On January 1, 2008 And Ending On December 31, 2008, For The Collection And Disposal Of Residential Solid Waste, Yard Trash, Bulk Waste And Operation Of The City's Green Waste Facility.
(Public Works)

ACTION: Resolution No. 2007-26682 adopted. Fred Beckmann to handle.

- C7R A Resolution Authorizing The Acceptance Of One Hundred And Fifteen Thousand Dollars (\$115,000) In Cash And In-Kind Sponsorships Made To The City For "Sleepless Night", A Free Citywide Arts And Cultural Event; And Further Appropriating Eighty Thousand Dollars (\$80,000) In Cash For "Sleepless Night"; And Authorizing The City Manager, As The City Commission's Designee, To Accept Future Sponsorships Made To The City Subsequent To The Effective Date Of This Resolution, For The Event, Subject To Ratification By The Mayor And City Commission; And Authorizing The City Manager Or His Designee To Make Such Expenditures And/Or Reimbursements From The Aforestated Sponsorships, In Furtherance Of And Consistent With The "Sleepless Night" Event.
(Tourism & Cultural Development)

ACTION: Resolution No. 2007-26683 adopted. Max Sklar to handle.

- C7S A Resolution Accepting A Donation To The City, For The Bass Museum Of Art, Of Those Certain Works Of Arts, As Set Forth In Exhibit "A" To This Resolution, Valued In Total At \$908,000, From Alan And Robert Potamkin.)
(Tourism & Cultural Development)

ACTION: Resolution No. 2007-26684 adopted. Max Sklar to handle.

Commissioner Libbin recognized and thanked Mr. Alan and Robert Potamkin for their donation.

- C7T A Resolution Approving A Revision Of Billing Rates For Stagehands Providing Services At The Colony Theater And Byron Carlyle Theater To Go Into Effect October 17, 2007 Through September 30, 2008, And To Further Providing For Administrative Authority For Future Labor And Equipment Rate Revisions For The Colony Theater And Byron Carlyle Theater.
(Tourism & Cultural Development)

ACTION: Resolution No. 2007-26685 adopted. Max Sklar to handle.

- C7U A Resolution Ratifying An Agreement Between The City Of Miami Beach And Spiegel LP, For "Spiegelworld", A Live Performance Venue With Theatrical Shows, Musical Performances And Ancillary Food And Beverage Services, To Be Located At The Collins Park Spoil Area, Located Between 21st And 22nd Streets, Commencing On December 14, 2007 - March 13, 2008.
(Tourism & Cultural Development)

ACTION: Resolution No. 2007-26686 adopted. Max Sklar to handle.

- C7V A Resolution Ratifying An Emergency Contract With Edd Helms Electric, In The Amount Of Six Hundred Ninety-Seven Thousand Eight Hundred And Sixty-Five Dollars (\$697,865.00), Entered Into On September 27, 2007, For Replacement Of The Hall B Buss Duct At The Miami Beach Convention Center; And Further Authorizing The Use Of Convention Center Airwall Funds And, Subsequently, Any Excess Funds From The Siemens A/C Retrofit Fiscal Year 2006/07 Capital Project.
(Tourism & Cultural Development)

ACTION: Resolution No. 2007-26687 adopted. Max Sklar to handle.

- C7W A Resolution Setting A Public Hearing Pursuant To Miami Beach City Code Section 118-262, To Review A Design Review Board Decision Requested By The Applicant Pertaining To DRB File No. 20427 For The Scott Rakow Youth Center Located At 2700 Sheridan Avenue.
(Planning Department)

ACTION: Resolution No. 2007-26688 adopted. Robert Parcher to notice. Lilia Cardillo to place on the December 12, 2007 Commission Agenda. **Jorge Gomez to handle.**

- C7X A Resolution Approving The Retroactive Assignment Of Contract By And Between The City And Best Maintenance, For Citywide Janitorial Services, To Omarcio Cleaning; And Further Authorizing The Mayor And City Clerk To Execute A Consent To Assignment Effective As Of April 1, 2006.
(Public Works)

ACTION: Resolution No. 2007-26689 adopted. Fred Beckmann to handle.

End of Consent Agenda

REGULAR AGENDA

R5 - Ordinances

1:35:36 p.m.

- R5A An Ordinance Amending Miami Beach City Code Chapter 102, Entitled "Taxation;" By Amending Article V, Therein, Entitled "Local Business Tax;" Amending Section 102-379, Therein, Entitled "Schedule Of Taxes," By Adding Additional Business Tax Receipt Codes And Clarifying Language; Providing For Severability, Codification, And An Effective Date. **10:15 a.m. Second Reading Public Hearing.**

(Finance Department)
(Continued from September 5, 2007)

ACTION: Public hearing held open and continued to December 12, 2007 at 10:15 p.m. Approve by acclamation; 6-0; Absent: Commissioner Cruz. Lilia Cardillo to place on the Commission Agenda. **Patricia Walker to handle.**

2:27:26 p.m.

R5B An Ordinance Amending Miami Beach City Code Chapter 2, Article III, Division 17 Entitled: "Commission On The Status Of Women" So As To Change Its Name To "City Of Miami Beach Commission For Women"; Providing For Repealer, Severability, Codification, And An Effective Date. **10:20 a.m. Second Reading Public Hearing.**

(Requested by Commissioner Michael Góngora & Vice-Mayor Matti Herrera Bower)
(First Reading on September 5, 2007)

ACTION: Public Hearing held. Ordinance No. 2007-3570 adopted. Motion made by Vice-Mayor Bower; seconded by Commissioner Góngora; Ballot vote: 6-0; Absent: Commissioner Cruz. R. Parcher to transmit to Municipal Code. **Robert Parcher to handle.**

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 452

7:23:10 p.m.

R5C An Ordinance Amending Chapter 82 Of The Miami Beach City Code Entitled "Public Property," By Amending Article IV, Thereof Entitled "Beaches," By Amending Division I, Entitled "Generally," By Amending Section 82-441 Entitled "Fishing From Viaducts And Bridges" By Prohibiting Fishing In The Jetty Area Between 29th And 33rd Streets And In Restricted Swim Areas In The City; Providing For Repealer, Severability, Codification, And An Effective Date. **10:25 a.m. Second Reading Public Hearing.**

(Requested by Commissioner Simon Cruz)
(First Reading on September 5, 2007)

ACTION: Public Hearing held. Ordinance No. 2007-3571 adopted. Motion made by Commissioner Cruz; seconded by Vice-Mayor Bower; Ballot vote: 7-0. R. Parcher to transmit to Municipal Code. **Edward Del Favero as Interim Fire Chief to handle.**

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 452

1:36:18 p.m.

R5D An Ordinance Amending Ordinance No. 789, The Classified Employees Salary Ordinance Of The City Of Miami Beach, Florida, Providing For The Group IV Classifications, Those Being The Classifications Covered By The Communication Workers Of America (CWA), Local 3178, In Accordance With The Negotiated Agreement; Effective In The First Pay Period Ending In October Of 2006, There Shall Be An Across The Board Wage Increase Of Six Percent (6%), And The Minimum And Maximum Of Each Pay Range Will Also Be Increased By Six Percent (6%); Effective With The First Pay Period Ending In October Of 2007, There Shall Be An Across The Board Wage Increase Of Five Percent (5%), And The Minimum And The Maximum Of Each Pay Range Will Also Be Increased By Five Percent (5%); Effective With The First Pay Period Ending In October Of 2008, There Shall Be An Across The Board Wage Increase Of Four Percent (4%); And The Minimum And The Maximum Of Each Pay Range Will Also Be Increased By Four Percent (4%); And Amending The Salary Ranges Of The Classifications Specified In The Negotiated Agreement; And By Abolishing The Classification Of Water Service Representative, And Establishing The Classification Of Water Meter Supervisor In Group V, Being Those Classifications Covered By The Government Supervisors Association Of Florida, OPIEU Local 100, (GSAF); By Abolishing The Classification Of Administrative Aide II/Risk Management And Establishing The Classification Of Storekeeper III, In Group VI, Being Other Classifications In The Classified Service Not Covered By A Bargaining Unit, Providing For A Repealer, Severability, Effective Date And Codification. **10:30 a.m. Second Reading Public Hearing.**

(Human Resources & Risk Management)

(First Reading on September 5, 2007)

ACTION: Public Hearing held. Ordinance No. 2007-3572 adopted. Motion made by Commissioner Góngora; seconded by Vice-Mayor Bower; Ballot vote: 6-0; Absent: Commissioner Cruz. R. Parcher to transmit to Municipal Code. **Ramiro Inguanzo to handle.**

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 452

1:38:35 p.m.

R5E An Ordinance Amending Ordinance No. 1335, The Classified Employees' Leave Ordinance, By Amending The Provisions For Accumulation And Payment Of Annual And Sick Leave For The Communication Workers Of America (CWA) And "Others" Classifications In The Classified Services Not Covered By A Bargaining Unit; Providing For A Repealer, Severability, Codification, And An Effective Date. **10:30 a.m. Second Reading Public Hearing.**

(Human Resources & Risk Management)

(First Reading on September 5, 2007)

ACTION: Public Hearing held. Ordinance No. 2007-3573 adopted. Motion made by Vice-Mayor Bower; seconded by Commissioner Góngora; Ballot vote: 6-0; Absent: Commissioner Cruz. R. Parcher to transmit to Municipal Code. **Ramiro Inguanzo to handle.**

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 452

1:39:26 p.m.

R5F An Ordinance Amending Ordinance No. 1613, The Unclassified Employees' Leave Ordinance, By Amending The Provisions For Accumulation And Payment Of Annual And Sick Leave; Providing For A Repealer, Severability, Effective Date, And Codification. **10:30 a.m. Second Reading Public Hearing.**

(Human Resources & Risk Management)
(First Reading on September 5, 2007)

ACTION: Public Hearing held. Ordinance No. 2007-3574 adopted. Motion made by Vice-Mayor Bower; seconded by Commissioner Góngora; Ballot vote: 6-0; Absent: Commissioner Cruz. R. Parcher to transmit to Municipal Code. **Ramiro Inguanzo to handle.**

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 452

1:40:18 p.m.

R5G An Ordinance Implementing Provisions Of The 2006-2009 Collective Bargaining Agreement Between The City And The Communications Workers Of America Local 3178; Implementing Provisions Of The 2006-2009 Collective Bargaining Agreement Between The City And AFSCME; And Implementing A 2007 Memo Of Understanding Between The City And GSA; Amending The Miami Beach Employees' Retirement Plan Created By Ordinance 2006-3504, As Subsequently Amended; Amending Section 5.12 Concerning The Early Retirement Incentive Program; Providing For Severability; Repealing All Ordinances In Conflict Therewith; And Providing An Effective Date. **10:30 a.m. Second Reading Public Hearing.**

(Labor Relations)
(First Reading on September 26, 2007)

ACTION: Public Hearing held. Ordinance No. 2007-3575 adopted. Motion made by Commissioner Góngora; seconded by Vice-Mayor Bower; Ballot vote: 6-0; Absent: Commissioner Cruz. R. Parcher to transmit to Municipal Code. **Linda Gonzalez to handle.**

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 456

1:41:35 p.m.

R5H An Ordinance Amending Ordinance No. 1605, The Unclassified Employees Salary Ordinance, By Abolishing The Classifications Of Arts, Culture & Entertainment Director, Log Cabin Education Coordinator, Log Cabin Employment Specialist/Job Coordinator, Log Cabin Instructor, Log Cabin Program Administrator, Log Cabin Driver/Instructor Aide And Recreation Supervisor II; Establishing The Classifications Of E-Government Administrator, Management Intern, Parks & Recreation Analyst, Senior Administrative Manager, Social Worker Intern And Quality Assurance Officer; Amending The Grade Of Customer Service Liaison; Providing For A Repealer, Severability, Effective Date, And Codification. **10:35 a.m. Second Reading Public Hearing.**

(Human Resources & Risk Management)
(First Reading on September 5, 2007)

ACTION: Public Hearing held. Ordinance No. 2007-3576 adopted. Motion made by Vice-Mayor Bower; seconded by Commissioner Góngora; Ballot vote: 6-0; Absent: Commissioner Cruz. R. Parcher to transmit to Municipal Code. **Ramiro Inguanzo to handle.**

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 452

12:11:12 p.m.

- R5I Cultural Arts Neighborhood District Overlay - CANDO
An Ordinance Amending The Code Of The City Of Miami Beach, Florida, By Amending Chapter 142, "Zoning Districts And Regulations," Article III, "Overlay Districts," Creating Division 7 Entitled "Cultural Arts Neighborhood District Overlay (CANDO)," By Including "Location And Purpose," And "Compliance With Regulations," Including Minimum And Average Unit Size For Rehabilitation And New Construction Projects, Mixed Use Floor Area Ratio (FAR) Incentives Where Permitted In Order To Accommodate Affordable Housing For Cultural Arts Workers; Providing For Codification; Repealer; Severability; And An Effective Date. **10:40 a.m. Second Reading Public Hearing.**
(Planning Department)
(First Reading on September 5, 2007)

ACTION: Public Hearing held. Ordinance No. 2007-3577 adopted as amended. Motion made by Vice-Mayor Bower; seconded by Commissioner Góngora; Ballot vote: 6-0. Absent: Commissioner Cruz. R. Parcher to transmit to Municipal Code. **Jorge Gomez to handle.**

Amendment:

1. 142-857(2): ".... The covenant, condominium documents and purchase and sale agreements, shall..."
2. 142-857(5): ".... during the covenant period. Each buyer and seller shall acknowledge compliance with this section in the closing documents."

End

Commissioner Libbin offered a friendly amendment to look at the possibility if after two years the units set aside for cultural arts work have not been rented or sold, to allow the workforce housing category to use these units without penalizing the developer.

Commissioner Gross suggested revisiting the issue at a later time.

Jose Smith, City Attorney, stated that Commissioner Steinberg had proposed language that is incorporated in Paragraph 2 and 5.

Mayor Dermer recognized Ron Bloomberg, Ray Breslin, Harvey Burstein, Diane Camber, Jeremy Chestler, Mark Cole, Bob Goodman, Conni Gordon, Seth Gordon, Rosie Gordon Wallace, Mike Hammon, Laura Jamieson, Cathy Leff, Nancy Liebman, Ada Llerandi, Manny Meland, George Neary, Charo Oquet, Ava Rado, Johnny Regan, Sara Stites, Mark Tamis, Kristen Thiele, Gail Thompson, Robert Wennett and Paul Woehrle for their hard work. He also thanked City staff, Hilda Fernandez, Assistant City Manager, AC Weinstein, Raul Aguila, Gary Farmer, Jorge Gomez, Max Sklar, Trish Walker and Nannette Rodriguez. He thanked Mitch Kaplan and stated that the development community has had a great venture with the cultural arts community, and thanked all for making this special.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 452
2. CANDO Mayor's Blue Ribbon Committee Contact Information List and Mission
3. Revised Ordinance distributed at the dais
4. Email from Gary Held to Hilda Fernandez and Jorge Gomez RE: 1831 Cando amendment
5. Petition from David Arthur Walters to Mayor David Dermer and Members of the City Commission dated October 3, 2007, RE: Ordinance to Create Affordable Housing within the Cultural Arts Neighborhood District Overlay – CANDO

1:42:51 p.m.

R5J Designation Timeframes

An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 118, "Administration And Review Procedures," Article X, "Historic Preservation", Division 3, "Issuance Of Certificate Of Appropriateness/Certificate To Dig/Certificate Of Appropriateness For Demolition", By Amending Section 118-591 To Modify Historic Designation Procedures; Providing For Repealer, Codification, Severability And An Effective Date. **10:45 a.m. Second Reading Public Hearing.**

(Planning Department)
(First Reading on September 5, 2007)

ACTION: Public Hearing held. Ordinance No. 2007-3578 adopted as amended. Motion made by Commissioner Libbin; seconded by Commissioner Góngora; Ballot vote: 6-0; Absent: Commissioner Cruz. R. Parcher to transmit to Municipal Code. **Jorge Gomez to handle.**

Amendment:

118-591((d)) ".....such time ~~one year~~ periods, the applicant...."

End

Gary Held, First Assistant City Attorney, advised the Commission of an amendment.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 452

2:09:49 p.m.

R5K An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 106, "Traffic And Vehicles," Article II, "Metered Parking," Division 1, "Generally," Sections 106-55, "Parking Rates, Fees, And Penalties;" Amending Monthly Municipal Parking Rates And Special Event Flat Rates; Providing For Repealer, Severability, And An Effective Date. **10:55 a.m. Second Reading Public Hearing.**

(Parking Department)
(First Reading on September 26, 2007)

ACTION: Public Hearing held. Ordinance No. 2007-3579 adopted. Motion made by Vice-Mayor Bower; seconded by Commissioner Libbin; Ballot vote: 6-0; Absent: Commissioner Cruz. R. Parcher to transmit to Municipal Code. **Saul Frances to handle.**

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 456

2:10:42 p.m.

R5L An Ordinance Amending Chapter 110 Of The Miami Beach City Code Entitled "Utilities," By Amending Article II Entitled "Water," By Amending Division 1, Entitled "Generally," By Amending Sections 110-39 (E) And (G) Entitled "Metered Water Supply Service," By Amending Section 110-42 (B), Entitled "Turning On And Shutting Off," And By Amending Section 110-43 (C), Entitled "Leaks And Waste," To Provide For Fee Schedules In Appendix A Entitled "Fee Schedule," And Amending Appendix A To Create Fee Schedules Therefor And New Fees For Meter Tampering; Amending Article IV, Entitled "Fees, Charges, Rates And Billing Procedure," By Amending Division 2, Entitled "Rates, Fees And Charges," By Amending Section 110-166, Entitled "Schedule Of Water Rates And Tapping Charges," By Amending Subsections (F), (G), (H), And (I) Thereof To Provide Additional Water Meter Fees And Amending Appendix A, Entitled "Fee Schedule," To Create Fees - Therefor And To Increase The Sanitary Sewer Service Charge Imposed By The City Pursuant To Sections 110-166 (A) And (B) And 110-168 (A), And Amending Section 110-192, Entitled "Delinquent Accounts; Payment Of Collection Costs And Attorney Fees; Creation Of Liens," Of Division 3, Entitled "Billing Procedures," By Amending Subsections 110-192 (B) To Provide For A Fee Schedule In Appendix A, Entitled "Fee Schedule," And By Amending Appendix A To Create Fee Schedule Therefor, Providing For Codification, Repealer, Severability, And An Effective Date. **11:00 a.m. Second Reading Public Hearing.**

(Public Works)

(First Reading on September 26, 2007)

ACTION: Public Hearing held. Ordinance No. 2007-3580 adopted. Motion made by Commissioner Libbin; seconded by Commissioner Góngora; Ballot vote: 6-0; Absent: Commissioner Cruz. R. Parcher to transmit to Municipal Code. **Fred Beckmann to handle.**

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 456

2:13:03 p.m.

R5M An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 98, "Streets And Sidewalks," Article III "Excavations" Division 2, "Permit," Section 98-92, "Application; Amount Of Deposit; Use Of Deposit To Replace Surface; Permit Fees"; By Specifically Amending Appendix "A" Section 98-92 (C) Thereof; Said Amendment Modifying Permit Fees To An Increase Of Twenty Five (25%) Percent, Following City In-House Survey Of Fees For Similar Services In Surrounding County/Municipalities; Providing For Repealer, Codification, Severability And An Effective Date. **11:15 a.m. Second Reading Public Hearing.**

(Public Works)

(First Reading on September 26, 2007)

ACTION: Public Hearing held. Ordinance No. 2007-3581 adopted. Motion made by Commissioner Góngora; seconded by Commissioner Gross; Ballot vote: 6-0; Absent: Commissioner Cruz. R. Parcher to transmit to Municipal Code. **Fred Beckmann to handle.**

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 456

7:20:52 p.m.

R5N An Ordinance Amending Chapter 142, "Zoning Districts And Regulations," Of The City Code, By Amending Division 2, "RS-1, RS-2, RS-3, RS-4 Single-Family Residential Districts," By Adding New Section 142-109 Entitled "Commercial Use Of Single Family Homes Prohibited"; Providing For Repealer, Severability, Codification And An Effective Date. **5:00 p.m. Second Reading Public Hearing.**

(City Manager's Office)
(Continued from July 11, 2007)

ACTION: Public Hearing open and continued to the first Commission Meeting in January 2008 at 5:00 p.m. Approved by acclamation; 6-0; Absent: Commissioner Góngora. Lilia Cardillo to place on the Commission Agenda. **Hilda Fernandez to handle.**

7:24:52 p.m.

R5O Parking Rate Ordinance Amendments - Hybrid/ILEV Vehicle Incentives
An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 106, "Traffic And Vehicles" Article II, "Metered Parking" By Amending Sections 106-55, "Parking Rates, Fees, And Penalties; Creating A New Subsection (N) Therein Entitled "Hybrid/ILEV (Inherently Low Emissions Vehicles) Vehicles Incentives;" Providing For Repealer, Severability, And An Effective Date. **First Reading.**

(Requested by Commissioner Richard L. Steinberg/Parking Department)

ACTION: Ordinance approved on First Reading as amended. Motion made by Commissioner Steinberg; seconded by Commissioner Gross; Ballot vote: 6-0; Absent: Commissioner Góngora. Second Reading and Public hearing scheduled for December 12, 2007. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. **Saul Frances to handle.**

Amendments:

1. 106-55(n) " **Effective November 1, 2007 January 1, 2008.....**"
2. 106-55(n)(c) " **the cost of the Hybrid Citywide Decal for residents only is \$500.00 \$365.00 per year**
3. 106-55(n)(d) " **parking spaces at the 42nd 17th Street Municipal Garage....**"

End

Commissioner Steinberg introduced the item and stated that this item encourages the use of vehicles that have low emission by giving financial parking incentive to owners; he suggested two amendments: 1) to provide monthly parking permit and residential permit holders at a 25% discount for hybrid vehicles and 2) to allow a limited amount number of parking decals to be available citywide to \$365 per year to residents only. He also suggested reserving 1% of the parking spaces at 42nd Street Municipal Garage instead of 17th Street Municipal Garage.

Jorge Gonzalez, City Manager, stated that January 1, 2008 is the effective date.

Commissioner Gross commended Commissioner Steinberg on this issue but added that the hybrid vehicles are not necessarily the ones with the lowest mileage, and asked if the City should be encouraging conservation and efficiency in mileage.

Robert Middaugh, Assistant City Manager, explained that the issue is about reducing emission.

Discussion held.

Commissioner Steinberg explained in regards to governmental vehicles that through the MPO the City authorized purchasing a number of hybrid buses for the County fleet, also there are few municipalities throughout the country that have used parking incentives to encourage hybrid use and Miami Beach would be the first in the State of Florida to do so.

2:47:01 p.m.

R5P An Ordinance Amending Sections 18-901-18-910, Entitled Street Performers And Art Vendors; Authorizing Street Performers And Artist Vendors To Use Portable Tables On Ocean Drive Following Receipt Of A Permit Subject To Certain Conditions And Permit Fees; Prohibiting Spray Painting And Airbrushing; Providing Definitions, Setting Forth Terms, Conditions And Regulations For Permits Issued To Street Vendors Performers And Artist Vendors; Providing For Enforcement, Suspension Or Revocation; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading.**
(Neighborhoods Services)

ACTION: Ordinance approved on First Reading. Motion made by Commissioner Góngora; seconded by Vice-Mayor Bower ; Ballot vote: 6-0; Absent: Commissioner Cruz. Second Reading and Public hearing scheduled for December 12, 2007. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. **Vivian Guzman to handle.**

Marielo Phillipeli explained his reasons against the idea of lottery in Ocean Drive.

Handout or Reference Materials:

1. Ordinance distributed on the dais

12:23:42 p.m.

R5Q Ocean Front Height Requirements - Historic Districts
An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations," By Amending Division 3, "Residential Multifamily Districts," By Amending Subdivision V, "RM-3 Residential Multifamily High Intensity," To Modify The Maximum Building Height Requirements For Oceanfront Properties Located In Historic Districts; Providing For Repealer, Codification, Severability, Applicability And An Effective Date. **First Reading.**
(Planning Department)

ACTION: Ordinance approved on First Reading as amended. Motion by Commissioner Gross; seconded by Commissioner Góngora; Ballot vote: 6-0; Absent: Commissioner Cruz. Second Reading and Public hearing scheduled for December 12, 2007. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. **Jorge Gomez to handle.**

Amendment

1. 50 feet for additions where the existing building is less than 5 stories but at the discretion of the Historic Preservation Board that can be increased up to 10 stories based on context of the surrounding properties.
2. Change in applicability section to get variance under City Code Section 118-564.
3. If there is a vested project, it can be changed to a hotel and the ordinance will not be applicable as long as the unit size does not change.

End

Jorge Gomez, Planning Director, introduced the item. He stated that there are about 5 or 6 properties which are affected by the ordinance.

Discussion was held.

Commissioner Libbin asked what is the average height of buildings north of 65th Street.

Jorge Gomez, Planning Director, stated that he would get that information for second reading.

Commissioner Libbin regarding Ocean Terrace stated that at some point he would like to refer to the Land Use and Development Committee a discussion regarding the properties which are shuttered or boarded up on Ocean Terrace.

Jorge Gomez, Planning Director, stated that he would get him some information about what the Planning Board is doing relative to Ocean Terrace.

Wayne Pathman, Pathman and Lewis spoke.
Tom Mooney, Planning Department, spoke.
Daniel Veitia, spoke about the Golden Sands Hotel.
Bill Farkas, MDPL Executive Director, spoke.

12:20:50 p.m.

R5R Ocean Front Height Requirements - Architectural District

An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations," By Amending Division 3, "Residential Multifamily Districts," By Amending Subdivision V, "RM-3 Residential Multifamily High Intensity," To Modify The Maximum Building Height Requirements For Properties Located In The Architectural District; Providing For Repealer, Codification, Severability And An Effective Date. **First Reading.**

(Planning Department)

ACTION: Ordinance approved on First Reading. Motion made by Commissioner Gross; seconded by Commissioner Steinberg; Ballot vote: 6-0; Absent: Commissioner Cruz. Second Reading and Public hearing scheduled for December 12, 2007. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. **Jorge Gomez to handle.**

2:52:48 p.m.

Supplemental Material: Additional Information

R5S An Ordinance Deleting The Language In Sections 82-366 Through 82-388 (The City's Sidewalk Cafe Ordinance) In Its Entirety, And Replacing It With New Language In Said Sections 82-366 Through 82-385, Adopting And Incorporating The City's New Sidewalk Cafe Ordinance; Providing For Repealer, Codification, Severability, And An Effective Date. **First Reading.**
(Public Works)

ACTION: Ordinance approved on First Reading as amended. Motion made by Commissioner Gross to approve with the amendments listed below; seconded by Vice-Mayor Bower; Ballot vote: 7-0. Second Reading and Public hearing scheduled for December 12, 2007. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. **Fred Beckmann to handle.**

Amendments submitted by Raul Aguila, First Assistant City Attorney.

1. Section 82-370(b) on page 566 of the 10-17-07 Agenda Packet -- line 6 – 7; delete "...and/or the City Manager... ."
2. Section 82-384(h) on page 573 – line 2; add "feet" after the word "ten (10)".
3. Section 82-384(j) on page 574 – delete the words "City Manager" on last line of subsection.
4. Section 82-384(y) on page 576 – delete subsection in its entirety.
5. Section 82-384(z) on page 576 – re-letter as new subsection (yy).
6. Section 82-384(bb) on page 576 – reference in line 2 to subsection (i) should be changed to refer to subsection (cc).
7. Section 82-384(hh) on page 578 – line 9; remove "city".

Amendments at the Commission Meeting.

1. Eliminate the 50% percentage requirement.
2. The food to be displayed should be real food, covered at all times, and placed adjacent to the hostess area.
3. Table outside the boundary of the site plan is a violation and citation will be issued.
4. As long as the chairs are un-stacked and setup by 11 a.m. whether open or not, is okay, this is assuming the area is cleaned by the business.

End

The issue of the storing of the heaters and the gas tank needs to be resolved. **Fred Beckmann to handle with the Fire Department.**

Discussion was held and amendments were made to the ordinance.

Jay Egilmez spoke.
Marvin Silverman spoke.
Flavio Nisti spoke.
Mario Patroni spoke.
David Kelsey spoke.
Thelma Deutsch spoke.
Giselle Nasser spoke.

Handout or Reference Materials:

1. Three page document from the South Beach Hotel and Restaurant Association RE: Meeting of Sidewalk Café Permit Holders with City of Miami Beach dated September 27th, 2005.
2. Memo from David Kelsey to Robert Parcher dated October 16, 2007 RE: Speakers List for Item R5S.

7:33:34 p.m.

R5T An Ordinance Amending Chapter 2 Of The Code Of The City Of Miami Beach, Florida, Entitled "Administration," By Amending Article III Thereof, Entitled "Agencies, Boards And Committees," By Amending Division 6 Thereof, Entitled "Cultural Arts Council," By Amending Section 2-58; And Creating New Sections 2-58(A) And 2-58(B); And Further Amending Division 5 Thereof, Entitled "Convention Center Advisory Board," By Amending Sections 2-46(B) And 2-46(C)(1) And 2-46(C)(9) And 2-46(F); Said Amendments Related To Removing The Community Benefit Fund And The Jackie Gleason Theater From Powers And Duties Of The Convention Center Advisory Board; Said Amendments Related To The Powers And Duties Of The Community Benefit Fund; Providing For Repealer, Severability, Codification And An Effective Date. **First Reading.**
(Tourism & Cultural Development)

ACTION:

Cultural Arts Council Ordinance

Ordinance approved on First Reading. Motion made by Vice-Mayor Bower; seconded by Commissioner Cruz; Ballot vote: 6-0; Absent: Commissioner Góngora. Second Reading and Public hearing scheduled for December 12, 2007. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. **Max Sklar to handle.**

Convention Center Advisory Board Ordinance

ACTION: Ordinances approved on First Reading. Motion made by Vice-Mayor Bower; seconded by Commissioner Libbin; Ballot vote: 6-0; Absent: Commissioner Góngora. Second Reading and Public hearing scheduled for December 12, 2007. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. **Max Sklar to handle.**

6:18:14 p.m.

R5U An Ordinance Amending Chapter 94 Of The Code Of The City Of Miami Beach, Florida, Entitled "Special Assessments," By Amending Article III Thereof, Entitled "Bonds"; By Creating A New Section 94-96, Entitled "Procedures Governing The Issuance Of Bonds,"; Providing For Repealer; Severability; Codification; And An Effective Date. **First Reading.**
(Requested by Mayor David Dermer/Finance Department)

ACTION: Ordinance approved on First Reading as amended. Motion made by Vice-Mayor Bower; seconded by Commissioner Gross; Ballot vote: 7-0. Second Reading and Public hearing scheduled for November 7, 2007 and if there is a runoff election, the second reading and public hearing will be held on November 21, 2007 at 11:00 a.m. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. **Patricia Walker to handle.**

Amendment:

1. 2-278(a)(2) ".... Bonds shall be first considered and, reviewed,~~and approved by a majority vote of~~ by the City's Finance and Citywide Projects Committee."
End

Mayor Dermer thanked Raul Aguila, First Assistant City Attorney, for his work on this ordinance and stated that this ordinance meets the minimum requirements.

Commissioner Libbin recommended revisions to the language and Mayor Dermer accepted the revised language.

Russell Galbut spoke.

2:15:03 p.m.

R5V An Ordinance Amending Chapter 82 Of The Miami Beach City Code, Entitled "Public Property," By Amending Article I, Entitled "In General," By Amending Section 82-4 – 82-5, Entitled "Reserved," By Amending Section 82-4 To Prohibit Foods Containing Artificial Trans Fat In Vending Machines On City Property And In Concession Facilities Subject To Concession Or Management Agreements With The City; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading**
(Requested by Commissioner Richard L. Steinberg/City Attorney's Office)

ACTION: Ordinance approved on First Reading as amended. Motion made by Commissioner Steinberg; seconded by Commissioner Góngora; Ballot vote: 6-0; Absent: Commissioner Cruz. Second Reading and Public hearing scheduled for December 12, 2007. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. **Legal Department to handle.**

Amendment:

1. Applies only to vending machines

End

Commissioner Steinberg introduced the ordinance and explained that the vendor is willing to amend the contract and add the provision. He explained that the School Board has eliminated these products on school grounds and our parks have these products for kids afterschool. He also suggested reaching out to concession agreements.

Jorge Gonzalez, City Manager, asked if this ordinance is imposed on the concessionaires. His concern is the concession at the Miami Beach Convention Center.

Discussion held.

Commissioner Libbin stated that this ordinance seems to go too far and parents should be regulating what the kids are eating.

Vice-Mayor Bower added that she believes that is one's choice to eat trans fats, and as long as it is legal one should be able to choose, she suggested maybe having labels on those foods.

Commissioner Steinberg stated that this will only apply to vending machines and will not apply to the Convention Center.

R7 - Resolutions**12:57:44 p.m.**

R7A A Resolution Considering An Appeal Of A Design Review Board Decision Pertaining To DRB File No. 9024, Located At 1330 West Avenue, The Waverly. **11:30 a.m. Public Hearing.**
(Planning Department)
(Continued from September 5, 2007)

ACTION: Public Hearing held. Resolution No. 2007- 26690 adopted. Motion made by Commissioner Steinberg to affirm the Design Review Board decision; seconded by Commissioner Gross; Voice vote: 5-0; Absent: Commissioners Cruz and Góngora. **Jorge Gomez to handle.**

Tucker Gibbs, Esq., representing Waverly South Beach Condominium Association, presented his argument. He explained that this condition does not require an open bay walk until a bay walk is first built to the south. In the review of this appeal, he requested the incorporation of the entire record into the proceeding; and to reverse, remand or modify the DRB decision. The City Commission has to determine that the board did not provide procedural due process, observe essential requirements of law or base its decision on competent and substantial evidence. He objected to the process as interpreted by the City Attorney; and explained that his client was asked to present a brief, pursuant to Section 118-262, which states that appropriate legal brief shall be filed no later than two weeks prior to the public hearing to consider the appeal. In addition, no response brief was required of the City, which puts his client at a disadvantage, he presented the case over a month ago and he heard a response from the City Attorney's Office for the first time and added that that is not an appropriate appellate procedure.

Jose Smith, City Attorney, explained that the City Code requires the appellant to submit a brief; he added that he does not recall whether there is a reference on the Code as to whether or not the City has to respond to the brief.

Gary Held, First City Attorney, explained that there is no provision in the City Code for a response, but clarified that the City Attorney's Office would respond to the objection that it does not create a disadvantage.

Tucker Gibbs, Esq., representing Waverly South Beach Condominium Association, stated that this is an appellate proceeding and he has never been involved in an appellate proceeding where he presented his case and the opposite side has not been able to present their response.

Mayor Dermer stated that his objection would be noted for the record and that the record requested would also be incorporated.

Tucker Gibbs, Esq., representing Waverly South Beach Condominium Association, clarified that the Waverly is not seeking the elimination of the bay walk; in fact, the Waverly has agreed to open the bay walk to the public upon completion of a security fence after the seawall repairs are completed, pending resolution of this matter in court. He stated that he will show that the DRB failed to apply the correct law when it determined that the condition of the 1997 DRB order requires a public bay walk to be open prior to the condition of the bay walk to the south of the Waverly's property line. Ignoring the plain language of condition, the level of the DRB order is a failure to follow the essential requirements of law. The essential requirements are the City's Code and the Order which it is being appealed from. There is no code provision in the City that requires a bay walk as a condition for development, and even if the condition was authorized, the language of the order itself "*a bay walk extension from the south side of the property*" speaks specifically to a bay walk extension, which is defined as an extension, enlargement or to lengthen and this is not a bay walk extension. At the Shoreline Review Committee in 1997 the applicant's attorney made that point when he stated that a bay walk would eventually be provided; the desire was to open a bay walk when it is connected and safe. The

applicant was clear that a bay walk extension would be open after a bay walk to the south was complete because of safety issues; and there was no opposition from City staff. He explained that the issue to the developer was safety; the issue of liability is an issue for the developer and for his client. His clients asked the City, now that the bay walk is required, if the City is going to indemnify them or if the City is going to protect his clients since the public will be walking on that property. The Shoreline Review Committee voted to approve this project as presented, with the proviso that the bay walk would not be open until it can be extended from the south, and stated that the City did not meet the requirements of applying the law correctly, and that there was no competent and substantial evidence presented to the DRB which supports their determination that the bay walk needs to be open now. There is no explanation, testimony or any other evidence that the use of the language "*a bay walk extension from the south side is required*" means anything other than what it says; that a public bay walk will be extended from the public bay walk to the south when that bay walk is completed. He urged the City Commission to grant the appeal, reverse the DRB.

Gary Held, First City Attorney, responded to Mr. Gibbs' objection by stating that he provided Mr. Gibbs this morning with copies of all authorities and statute that he intends to discuss in this argument. He explained that in 1997 the DRB imposed a condition on the park shore project, the predecessor to the Waverly, as follows: "*a bay walk extension from the south side of the property north into the future park area shall be required.*" The condition was recommended as part of the staff report for that application; the applicant did not object to the condition at the time of the DRB hearing and did not appeal the decision of the DRB when it approved the project and imposed the condition. This appeal arises from the Waverly Condominium Association's request to the DRB for clarification of the condition nine years later; the Waverly Association asserted to the DRB that its bay walk should not be opened at this time because it argued that the condition actually required that the property to the south, which is a single family residence, (DRB transcript pages 10-11) had to have provided a bay walk that is open to the public before the Waverly should be required to open its bay walk. The Waverly had the burden below of establishing before the DRB that the Waverly's interpretation of what the DRB adopted in 1997 was what the DRB then intended. The DRB this year rejected the Waverly's argument denying its request for clarification because the Waverly failed to provide sufficient evidence to support its interpretation.

Mr. Held pointed out the arguments made by The Waverly Association:

- 1) the word "*extension*" requires that until there is a bay walk connection to the south, The Waverly need not make its bay walk open to the public – there is nothing in the DRB's condition that suggest that the Waverly's bay walk need not be open until another property's bay walk is provided; the Waverly did not offer any evidence at the hearing as to what the original DRB in 1997 considered or discussed at the hearing in adopting that condition and because of that failure, the DRB was unable to, nine years after the condition was adopted, to clarify what the original board intended beyond the conditions' plain and obvious meaning. He read language from recent cases from the Third Appeals Board. He explained that the use of the word extension does not require that the bay walk to the south be ready to connect to the Waverly's bay walk at the time of their opening; if an extension were required at the time of their opening, the bay walk can easily extend into the land to the north of the Waverly, the city's street and park to the north.
- 2) the Shoreline Review Committee did not require them to open a bay walk before the bay walk to the south is open – the condition in question is a DRB condition, not a Shoreline Review Committee condition. The committee makes recommendations to the DRB; any recommendation to the contrary would simply would not followed by the DRB in 1997. The approved plan by the committee showed gates, not a fence or solid wall as presently exists at either end of the Waverly's bay walk end of the property (transcript pages 7-8); moreover, the Shoreline Committee's order does not contain the limitations suggested by the Waverly (DRB transcript page 79). More importantly the DRB could not clarify the 1997 DRB condition based upon discussion had during Shoreline Review Committee hearing; the Waverly did not provide any evidence of the DRB's deliberations in 1997 that would have convinced the DRB of the Waverly's

interpretation.

- 3) The Waverly argued to the DRB that they were an innocent purchaser, and that the bay walk is part of the condominium unit or a successor in interest of this property without knowledge of the condition; the DRB rejected this argument as it had never been a sufficient justification, for avoiding a legal requirement imposed by a Board, and not a sufficient justification now.
- 4) in October 2006 the Waverly argued that requiring the bay walk to open without an extension to the south creates a security issue; however, the unrebutted testimony before the DRB at a hearing in 2006 by Mr. Mooney, City's Preservation and Design Manager (transcript 11-12, 79-80) was that the bay walk did not need a dead end at the south end of the property, as there is a 20 foot set back all along the south side of the Waverly's property, and a walkway could be designed to connect from the bay walk to the sidewalk on West Avenue. With property security measures, Mr. Mooney explained that there are a number of ways to secure this area (DRB transcript page 80); with respect to potential liability of the property owner, Mr. Gibbs has already acknowledged the existence of section 375.251 Florida Statute, which relieves the honor of liability when it opens its property to the public.
- 5) The Waverly also argued that the DRB did not have authority to impose a bay walk condition, that if any board could it was the Shoreline Committee, and that the committee accepted the security issue presented and did not require the bay walk to be opened; however, even if it were arguable that the DRB lacked authority to impose the bay walk condition, the applicant at the 1997 DRB hearing, did not object to the condition in staff report, and according to the unrebutted testimony of staff at the October 2006 hearing, (transcript pages 14-15), even if the Waverly's predecessors did not accept those conditions, it is unacceptable that the original developer or any successor could allow a Board Order to become final and complaint about the conditions of the order almost a decade later. He gave samples of similar court decisions.

Mr. Held continued stating that any argument in this appeal or any other case challenging the validity of the bay walk condition has to be rejected on the basis of estoppels, laches, failure to exhaust administrative remedies and the running of the Statute of limitations. The pursuit and completion of construction and the acceptance of conditions cannot now be withdrawn. The effect of the developer's actions is the equivalent to making the bay walk condition a voluntary proper or a known waiver of constitutional right. The Waverly today has not shown that the DRB failed to provide procedural due process, observe the essential requirements of law or based its decision on substantial and competent evidence. He concluded by stating that, based upon the facts discussed and the legal conclusions, the City Commission should affirm the decision of the DRB. The Waverly should be required to open its bay walk to the public as soon as it is safe to do so.

Tucker Gibbs, Esq., explained that they are not challenging the validity of the condition that a bay walk extension is built from the south; and that was understood. The issue is the liability of having a dead end for 270 feet from that park ending on their south side when is open to the public. In 1997 his clients did not object because it was an extension to the south. They are not trying to avoid their legal responsibility under condition 10; they intend to open the bay walk, and in good faith, when safe. The City made the requirement of that dead end, and if there is liability problem, extend public access all the way to West Avenue, expand the liability and allow the public to go through the property, and that was not what his client agreed to. The fact is that the DRB Order itself is clear; the bay walk does not extend to West Avenue and is not relevant to this appeal.

Discussion held.

Motion made by Commissioner Steinberg to affirm the DRB action; seconded by Commissioner Gross.

Tucker Gibbs, Esq., spoke.

Discussion continued.

Gary Held, First City Attorney, made a correction for the record, that there is an existing bay walk park property to the north.

Discussion continued.

Commissioner Steinberg stated that the word "extension" is clearly defined as to what a bay walk extension is, from the south side of the property north into the future park area; the language is clear.

Mayor Dermer thanked Gary Held and Tuck Gibbs for their arguments.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 444
2. 2007 Florida Statutes Section 375.251 Limitation of liability of persons making available to public certain areas for recreational purposes without charge.
3. Email from Gary Held to Robert Parcher, Jorge Gomez, Thomas Mooney and William Cary dated October 16, 2007 RE: DRB appeal to City Commission.

2:01:26 p.m.

R7B A Resolution Approving On First Reading, A Lease Agreement Between The City And The Miami Design Preservation League, Inc., For The Lease Of Approximately 2663 Square Feet Of City-Owned Property Located At 1130 Washington Avenue, Miami Beach, Florida (Historic City Hall), For The Purpose Of MDPL's Administrative Offices, An Art Deco Welcome Center, And Educational Center; Said Lease Having An Initial Term Of One (1) Year, Commencing On March 1, 2008, And Ending On February 28, 2009, With An Option To Renew For Two (2) Additional One (1) Year Terms, At The City's Sole Discretion; Further Waiving, By 5/7ths Vote, The Competitive Bidding And Appraisal Requirements; As Required By Section 82-39 Of The Miami Beach City Code, Finding Such Waiver To Be In The Best Interest Of The City; And Further Setting A Public Hearing To Hear Public Comment Of Said Lease On Second And Final Reading Of This Resolution On December 12, 2007.

First Reading.

(Asset Management)

ACTION: Title of the Resolution read into the record. Resolution No. 2007-26691 adopted. Motion made by Vice Mayor-Bower; seconded by Commissioner Góngora; Voice vote: 6-0; Absent: Commissioner Cruz. Second Reading and Public Hearing scheduled for December 12, 2007. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. **Ana Cecilia Velasco to handle.**

Jorge Gonzalez, City Manager, introduced the item. He explained that Miami Design Preservation League (MDPL) will be relocated to the first floor at Old City Hall during renovations of the 10th Street Auditorium in order for them to continue operations.

Timothy Hemstreet, Assistant City Manager, spoke.

Discussion held.

Fred Beckmann, Public Works Director, in answer to Commissioner Gross's questions, stated that the building will be complete by the end of the year.

Bill Farkus, MDPL, spoke.

Ana Cecilia Velasco, Asset Management Director, spoke.

7:35:50 p.m.

R7C A Resolution Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 1 To The Existing Agreement With RIC-Man International, Inc., Dated December 6, 2006, For The Neighborhood No. 7 - Nautilus Right-Of-Way Infrastructure Improvement Project, In The Amount Of \$27,110,222 (Authorized By Resolution No. 2006-26423); Said Amendment In An Amount Not To Exceed \$6,369,544, To Accommodate Additional Work Scope For The Project; Further Amending The Agreement To Memorialize The Agreement Between The City And RIC-Man To Cap The Project Cost At A Not To Exceed Amount Of \$33,479,766.

(Capital Improvement Projects)

ACTION: Resolution No. 2007-26692 adopted. Motion made by Commissioner Cruz; seconded by Voice-Mayor Bower; Voice vote: 6-0; Absent: Commissioner Góngora. **Jorge Chartrand to handle.**

Jorge Cano, CIP Office, introduced the Nautilus ROW project.

7:39:42 p.m.

Supplemental Material: Resolution & Supplemental Material

R7D A Resolution Approving And Authorizing The Appropriation Of Funds, In The Amount Of \$7,868,861 (With \$6,606,111, From Parking Impact Fees, Fund 155, And \$1,262,750 From Parking Operations Fund 480, With The Balance Of The Funding Available From Previously Appropriated Funding From Funds 480, 155, And 365 In The Fiscal Year (FY) 2006-2007 Capital Budget) And Awarding A Contract To The Tower Group, Pursuant To Invitation To Bid (ITB) No. 34-06/07, For The Multipurpose Municipal Parking Facility Bid Package 03-Garage & Office Building Complex In The Amount Of \$26,769,000.

(Capital Improvement Projects)

ACTION: Deferred. Lilia Cardillo to place on the Commission Agenda. **Jorge Chartrand to handle.**

Handout or Reference Material

1. Emails from Raul Aguila, First Assistant City Attorney, to Alfredo and Pedro Munilla (MCM), dated October 15, 2007 RE: Item R7D to Award a Contract to the Tower Group, pursuant to ITB #34-06/07.
2. Email from Pedro Munilla, MCM Corp, to Jose Smith dated, October 15, 2007 RE: Manager's recommendation to the Tower Group, pursuant to ITB #34-06/07
3. Email to Jorge Gonzalez from Raul Aguila dated October 15, 2007 RE: Manager's recommendation to the Tower Group, pursuant to ITB #34-06/07.
4. Email from Raul Aguila, First Assistant City Attorney, to Alfredo and Pedro Munilla (MCM), dated October 15, 2007 RE: Item R7D to Award a Contract to the Tower Group, pursuant to ITB #34-06/07
5. Email from Raul Aguila, First Assistant City Attorney, to Michael J. Kurzman dated October 16, 2007 RE: Bid Protest by Team Contracting Inc., on Multipurpose Municipal Parking Facility.
6. Email from Michael J. Kurzman to Gus Lopez dated October 16, 2007 RE: Bid Protest by Team Contracting Inc., on Multipurpose Municipal Parking Facility.
7. Email from Michael J. Kurzman to Raul Aguila dated October 16, 2007 RE: Bid Protest by Team Contracting Inc., on Multipurpose Municipal Parking Facility.
8. Email from Raul Aguila, First Assistant City Attorney, to Michael J. Kurzman dated October 16, 2007 RE: Bid Protest by Team Contracting Inc., on Multipurpose Municipal Parking Facility.
9. Emails from Raul Aguila, First Assistant City Attorney, to Jorge Gonzalez dated October 16, 2007 RE: Bid Protest by Team Contracting Inc., on Multipurpose Municipal Parking Facility.
10. Email from Raul Aguila, First Assistant City Attorney, to A. Heckler, Alfredo De Armas and Pedro Munilla (MCM)/ dated October 16, 2007 RE: Bid Protest by Team Contracting Inc., on Multipurpose Municipal Parking Facility.
11. Email from Alexander Heckler to Robert Parcher dated October 19, 2007 RE: Waiver form 09-29-07 to 10-12-07

2:40:19 p.m.

R7E A Resolution Requesting That The 23rd Street Bridge Over Collins Canal Project (Project) Be Removed From The Metropolitan Planning Organization's (MPO) Transportation Improvement Program (TIP); Further Requesting The Release Of The Project's Assigned Road Impact Fees (RIF), In The Amount Of \$4,535,000, Into The Miami Beach Road Impact Fee Fund.
(Public Works)

ACTION: Resolution No. 2007-26693 adopted. Motion made by Commissioner Libbin; seconded by Commissioner Góngora; Voice vote: 5-0; Absent: Commissioners Cruz and Gross. **Fred Beckmann to handle.**

Jorge Gonzalez, City Manager, introduced the item.

Gabrielle Redfern spoke in favor of the item. She stated this is a major connection and it needs to happen.

Discussion held.

Gabrielle Redfern suggested a feasibility study be done on Collins Avenue and to build a two-way bike facility with those funds that will be available from the Miami Beach road Impact Fee Funds.

Jorge Gonzalez, City Manager, explained that, unfortunately, the funds reside at Miami-Dade County for County streets.

7:39:43 p.m.

R7F A Resolution Authorizing The Mayor And City Clerk To Enter Into A Joint Participation Of Agreement (JPA) With The Florida Department Of Transportation (FDOT) For The Milling And Resurfacing Improvements Along Indian Creek Drive (SR A1A), Between 26th And 42nd Streets, In The Amount Of \$1,501,000, To Be Paid For By FDOT To The City.
(Public Works)

ACTION: Resolution No. 2007-26694 adopted. Motion made by Vice-Mayor Bower; seconded by Commission Libbin; Voice vote: 6-0; Absent: Commissioner Góngora. **Fred Beckmann to handle.**

2:28:23 p.m.

R7G A Resolution Approving And Adopting The Miami Beach Atlantic Greenway Network (AGN) Master Plan.

(Public Works)

ACTION: Resolution No. 2007-26695 adopted. Motion made by Vice-Mayor Bower; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent: Commissioner Cruz. **Fred Beckmann to handle.**

Rick Derr, Atlantic Greenway Network, showed a PowerPoint Presentation.

Gabrielle Redfern expressed her appreciation to the City Manager and City Commission for their support. She read an article from the Daily Sun Reporter from 1973. She thanked them for making her dream come true. She recognized Jack Ruiz, Mayor Dermer for his leadership, the City Commission and Public Works staff.

Ada Llerandi spoke.

Flavio Nisti spoke.

Saul Frances, Parking Director, spoke.

Handout or Reference Materials:

1. Miami Beach Atlantic Greenway Network PowerPoint Presentation.
2. Daily Sun Reporter article titled "Safe bike paths closer to reality for Miami Beach" by Jan Burge Korman, dated October 3, 1973.

5:28:52 p.m.

R7H A Resolution Calling For A January 29, 2008 Special Election, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach A Question Asking Whether The Charter Should Be Amended To Provide That When A "Hospital District" Is Rezoned, Such Property Shall Be Rezoned To A District Or Combination Of Districts With A Floor Area Ratio No Greater Than The Abutting Land (Sharing Lot Line), Except That "Hospital District" Property Exceeding 15 Acres May Exceed This Limitation If Adequate Buffers Are Provided To Protect Abutting Uses.

(Requested by Vice-Mayor Matti Herrera Bower)

ACTION: Resolution No. 2007- 26696 adopted. Motion made by Vice-Mayor Bower; seconded by Commissioner Gross; Voice vote: 7-0. **Robert Parcher to handle.**

Vice-Mayor Bower introduced the item.

Jose Smith, City Attorney, stated that at the request of the City Commission his office asked the Attorney General's Office to provide an opinion as to whether or not this charter question was consistent with Florida Statute 163.3167. The Attorney General's Office was furnished with a letter written by John Shubin disagreeing with some of the facts set out in the request; after reviewing both letters the Attorney General wrote a letter stating that he did not have enough facts regarding the question presented and suggested that the matter be addressed by way of declaratory action in Circuit Court. He explained that there is some language in the letter which deals with legal issues involving the interpretation of Florida Statute 163.3167 and whether or not this charter question is tantamount to a rezoning or not, which is a factual issue. The City Attorney's Office says it is not tantamount to a rezoning and believes that the charter question is valid, appropriate and consistent with the Florida Statute and Florida law. He stated that the City Commission is free to vote up or down based on policy issue but from the legal perspective it is his opinion that the charter question is legal and valid.

Commissioner Cruz stated that he also wants to make sure that in the HD district they also include the ACLF and nursing homes because he wants to make sure that the health care industry is protected. This is the most important criteria for him. He emphasized that he wants to make sure that this is in place before January 29, 2008 as it would impact dramatically the adapted reuse. He asked Jorge Gomez to explain that process.

Jorge Gomez, Planning Department Director, explained the ordinance which will be heard by the Planning Board on October 23, 2007. The ordinance dealing with rezoning will also be heard on the same date, to look at the abutting district FAR. He stated that the ordinance would come back to city Commission by December.

Jorge Gonzalez, City Manager, stated that the ballot question accomplishes it when it is not an HD district so the legal question is that if referendum is to pass, does it lock the use of the HD districts.

Jose Smith, City Attorney, explained the HD definition limits the FAR applicable to this property or other properties if there is a change.

Steven Sonnereich, CEO, Mt. Sinai Medical Center, stated that they have been meeting with homeowner associations and have received input in two items, senior services and looking at proper utilization of the Miami Heart property; also there is an interest to delay marketing of the property to allow a workshop process to take place, and this has been advocated by the Medical Center since the beginning, to come up with the best solution. This referendum makes it impossible for them to move forward with the workshop process and he is disappointed to hear it

Jeff Cohen spoke.

Rosemary Hoffman, President and cofounder of La Gorce Pine/Tree Homeowners Association, spoke and read a letter from the La Gorce/Pine Tree Homeowners Association into the record.

Paul Kress, President of the Nautilus area Home Owners Association, spoke.

John Shubin, Esq., Shubin & Bass, on behalf of Mount Sinai Medical Center, spoke regarding the General Attorney's Opinion letter and read the letter from the General Attorney for the record.

Gabrielle Redfern spoke.

Henri Lowenstein, President of the Orchard Homeowners Association, spoke.

Michelle Burger spoke on behalf of the Lakewood Homeowners Association.

Russell Galbut spoke.

Mayor Dermer stated that he believes the referendum should take place and he stated that the City Commission would like to see discussions by the Planning Board on the future of the HD districts.

Ariel Furst spoke.

Jorge Gonzalez, City Manager, asked for clarification, regarding the timing of the votes on the ordinances that are going in front of the Planning Board. He asked if it is the desire of the City Commission to notice those ordinances, pursuant to the Planning Board's action. The ordinance could be heard at the meeting to certify the Run-Off election for the first reading and then the second reading in December.

Commissioner Cruz agreed as long as it can be accomplished before the referendum charter amendment.

Mayor Dermer stated that he is very disappointed with the actions of the Planning Board on this. He

does not think it is right to have the staff go through this again and at this point he has lost confidence on the Planning Board. He would let this issue run its course and let the new Mayor and the new City Commission handle it.

Handout or Reference Materials:

1. Letter from Rosemary Hoffman, LaGorce/Pinetree Homeowners' Association to Mayor Dermer and City Commissioners dated October 17, 2007 RE: Mount Sinai Planning Board Application – Miami Heart Institute.
2. Letter from Bill McCollum, Attorney General, State of Florida, to Jose Smith, dated October 17, 2007 RE: Legal Opinion.

6:25:11 p.m.

Supplemental Material: Additional Information

R7I A Resolution Authorizing The City Administration To Continue To Negotiate The Video And Audio System Agreement With The New World Symphony, Inc. (NWS And/Or Developer), Said Agreement Pertaining To The Management, Operation, Scheduling, And Content Of Programming Of That Certain Video System (Formerly Referred To As The "Screen" In The NWS Development And Lease Agreements) Intended To Be Built And Integrated On To The Exterior Of The Proposed NWS Facility (The Building), And The NWS And City Audio Systems, To Be Installed, Respectively, Within The Developer's Improvements And Within The Park Project And The Garage; Authorizing The City Administration To Continue With Said Negotiations Substantially In Accordance With Those Certain Terms And Conditions As Set Forth In The Draft Agreement, As Attached To This Resolution, And As May Be Amended Herein; And, If Negotiations Are Successful, Then Authorizing The City Manager To Execute The Agreement On Behalf Of The City; Provided, However That In The Event That The City And NWS Are Unable To Negotiate A Final Agreement By December 3, 2007, Then Requiring That This Matter Be Brought Back To The City Commission For A Status Report And/Or Further Direction At The City Commission Meeting Of December 12, 2007; And Further Allowing NWS To Proceed To Obtain Its Building Permit For The Project, Pending Finalization Of The Agreement.
(Economic Development)

ACTION: Discussion held and concern discussed: NWS financing review, the issue of parking; and the screen. The issues will be worked out and a Special Commission meeting will be scheduled by the Administration.

Action items:

1. Commissioner Gross requested to see the construction staging, the plan for the park, and a meeting needs to be held with the Lincoln Road businesses. Tim Hemstreet to handle.

2. Commissioner Libbin asked that information be provided regarding the type of screen that can be viewed during the day versus viewing at night. Tim Hemstreet to handle.

3. Commissioner Steinberg will be the Commission liaison regarding the outdoor screen or projection issue.

4. Commissioner Gross - Consider a park management concept (part of the consensus building)

End

Tim Hemstreet, Assistant City Manager, introduced the item and stated that the item before the Commission is to consider a requirement that the New World Symphony (NWS) needs to achieve prior to the issuance of their building permit. The Administration does not believe that there can be an agreement on a use agreement in time for the NWS to pull their building permit. It is possible for the NWS to pull a building permit around the beginning of November. The recommendation is to remove the issuances of the use agreement from the requirement for a building permit and be

attached to another milestone such as certificate of occupancy (CO) or a temporary CO. There are several issues which deserve additional discussions, such as how will the outdoor screen will be operated or managed, and how much time screen time will the City be allocated.

Jorge Gonzalez, City Manager, explained that there are certain cultural criteria for the use of the screen, and the Administration is seeking guidance as to who will be the arbitrator of the screen.

Commissioner Libbin made a motion to separate the issues and allow NWS to go forward with the building permit while working out the details on the screen; he suggested a progress report within six months. No second offered and discussion continued.

Jorge Gonzalez, City Manager, also stated that there is a separate issue related to the building permit that is not related to the use agreement, which is a regulator requirement and that is the NWS needs to demonstrate how their parking requirement is going to be met. He explained the issue.

Discussion continued.

Commissioner Gross explained that there are a number of things that have priority over the screen usage issue and asked that the NWS give a project status report.

Howard Herring, President of the New World Symphony, stated that they have a guarantee maximum price and a contractor is in place, there is a projected start date of November, and there is a financing package which will be available for reviewed by the City Manager.

Commissioner Gross requested that the Lincoln Road property owners be made aware of the parking issue.

Jorge Gonzalez, City Manager, explained what the City is doing relative to parking.

Discussion continued regarding parking availability and the issue of the screen.

Commissioner Gross stated that initially there was discussion regarding the City Commission waiving the parking requirement in the CCC district, but Mr. Paul Sejas offered parking at his new building; however, that may not happen.

Jorge Gonzalez, City Manager, reminded the Commission that an ordinance would need to be approved giving the City Commission the ability to waive the parking requirement. In addition, timing on the part of the NWS is critical.

Howard Herring, President of the New World Symphony, stated that the timing for the project is scheduled to begin in November; contractors have been contracted and the NWS is ready to go and any delays will cost money.

Jorge Gonzalez, City Manager, stated that there are two different issues, one is a contractual issue; there is an agreement for the use of the screen, and mutually the agreement can be amended. There is a different issue when it comes to a regulatory body such as Planning and Zoning director signing off on the building stating that the required parking is identified. It has been assumed that the 420 buildings would solve the parking problem. The recent letter from Mr. Sejas regarding parking puts the issue of parking as a regulatory concern again. Because of the timing, he asked if an item could be placed on a November Agenda to solve the parking issue.

Jean Olin, Deputy City Attorney, explained that assuming a run-off election is required, the Commission cannot consider this issue on November 7, 2007, but a Special Commission Meeting can be called between today and November 21st, including the morning of November 21, 2007.

Discussion continued.

Howard Herring stated that they are planning on pulling a building permit on November 1.

Jorge Gonzalez, City Manager, recommended continuing negotiations with NWS and working with the Mayor to schedule a Special Commission meeting.

Commissioner Gross requested to see the construction staging, the plan for the park, and a meeting needs to be held with the Lincoln Road businesses.

Discussion continued.

Commissioner Libbin asked that information be provided regarding the type of screen that can be viewed during the day versus viewing at night. **Tim Hemstreet to handle.**

Howard Herring stated that when Frank Gehry envisioned the façade it was not a screen which could be used during the day, but a method to project against the wall.

Jorge Gonzalez, City Manager, asked that the Commission appoint a liaison to work out the issue of the screen/projection system.

Commission Steinberg volunteered and the discussion continued regarding the screen/projection concept.

Howard Herring spoke in detail about the projection system and their standards regarding the projection content.

Jorge Gonzalez, City Manager, stated that the direction should be that the hours be reserved for the City and that the content be managed by the City within the criteria established.

Commissioner Steinberg stated that he was envisioning something like a movie on the lawn.

Mayor Dermer stated that the tension lies in the fact that this will be a public park on public land. The programming needs to appeal to a variety of people.

Vice-Mayor Bower stated that there needs to be high standards but that the park is a park for everyone and this must be taken into consideration.

Commissioner Gross stated that there has not been any conversation regarding who is going to manage the park or what the programming of the park will be.

Benita Argos spoke.

City Clerk's Note: Resolution 2007-26697 was assigned to this item and was later voided.

7:44:53 p.m.

R7J A Resolution Relating To The Annual Evaluation Of The City Manager; Receiving The City Manager's Report And Adjusting His Employment Contract Accordingly.

(City Manager's Office)

(Memorandum & Resolution to be Submitted in Supplemental)

ACTION: Resolution No. 2007-26698 adopted as amended. Motion made by Commissioner Steinberg; seconded by Vice-Mayor Bower; Voice vote: 6-0; Absent: Commissioner Góngora. **Ramiro Inguanzo to handle.**

Amendment:

1. A performance increase of 5%
2. COLA increase of 3%, even though all other city employees received a 5% COLA
3. The contract was extended by one year and
4. He will receive an annual golf membership.

End

Mayor Dermer stated that there was a Committee of the Whole Meeting held earlier this afternoon and the entire Commission was extremely positive with Jorge's performance. He is the second longest serving city manager in the history of Miami Beach. The City is fortunate to have the stability of a very competent and professional manager who has done an excellent job in running the day-to-day operations of the City. He has truly proven himself over the last seven years.

Commissioner Steinberg moved the resolution and commended Jorge for everything he has done for the City for the past seven (7) years. He added that this last year was particularly difficult because of the budget constraints. This was a Herculean task on the part of the manager who had to go through different scenarios which in the end allowed the Commission to have the ability to reduce the millage rate as directed by the state legislature while continuing to provide quality services to the residents. He added that while the manager had many accomplishments throughout the year, he commended the manager for the budget process which was one of the most significant accomplishments.

Commissioner Gross stated that Jorge has done a great job and to keep up the good work. Regarding the budget, he stated that the manager did an excellent job. He stated that, for the record, the Commission agreed to give the manager the maximum performance increase of 5%, which is at the highest level, and for the COLA 3%, even though all other city employees received a 5% COLA. He stated that he hopes the manager stays for a long time because Jorge is doing an exceptional job.

Jorge Gonzalez, City Manager, stated for clarification, that the increase is not to salary but a contribution to a retirement fund; the base salary is not increasing. In addition, the contract was extended by one year and he will be given an annual golf membership.

Vice-Mayor Bower stated that Jorge has done a wonderful job and is a tough negotiator. He has brought high standards and professionalism throughout the City. He has been the best city manager she has worked with not only as a commissioner but as an activist.

Commissioner Cruz stated that Jorge needs to be commended for his work on the budget this year; he did a fantastic job. Jorge manages and controls the City exceptionally well.

Commissioner Libbin congratulated Jorge and added that this was a terrific year especially when you consider all of the accomplishments which are listed on the transmittal memorandum. The accomplishments included the dialog and negotiations with AEG Live, Live Nation, Cirque de Soleil, and the New World Symphony. This is in addition to all of the normal activities the City does. It was a great year. He added that he gave Jorge some specific areas to work on, but overall he is extremely pleased and would not prefer to have any other city manager.

Handout or Reference Material:

1. Memorandum from Mayor David Dermer to Members of the City Commission dated October 17, 2007 RE: City Manager's Performance Evaluation.

R9 - New Business and Commission Requests

R9A Board And Committee Appointments.
(City Clerk's Office)

ACTION:

Hispanic Affairs Committee:

Daniel Novela Term expires 12/31/07 Appointed by Commissioner Góngora TL 12/14

Miami Beach Commission on the Status of Women:

Marisue Beloff Term expires 12/31/08 Appointed by Commissioner Steinberg TL 12/13

R9A1 Board And Committee Appointments - City Commission Appointments.
(City Clerk's Office)

ACTION: Not reached.

1:46:56 p.m.

R9B1 Dr. Stanley Sutnick Citizen's Forum. (1:30 p.m.)

ACTION:

Michael Lantz, representing the disabled community, spoke regarding White Cane Safety Day, which is a day to commemorate the white cane that has been around since the 1940's to guide the blind. The Miami Beach Police Department staff promised to celebrate this day in the City to recognize the right for blind people to cross the streets safely either with a white cane or a guide dog. He believes this is necessary and urged the City Commission to bring attention to this matter and have this day celebrated next year.

Mayor Dermer stated that the City of Miami Beach participated with the City of Miami through the Lighthouse for the Blind on White Cane Day in celebrating White Cane Safety Day.

Bonnie Patchen stated that eight years ago the residents voted for the GO bonds issue, and complained that in eight years, improvements have not changed; there are street floods and lack of capital improvement and the City is running out of funds. She asked where all that money goes.

Raphael Herman spoke regarding his candidate presentation videotape having to be re-recorded and added that he brought American and Cuban flags to the presentation and staff would not let him use the flags, and that is against his constitutional right. He stated that he was disappointed with the second recording and asked for an opportunity to record again. He feels he was discriminated and asked the City Commission to instruct Mr. Parcher to re-record again.

Mayor Dermer stated that it was not within his purview to decide those matters.

Jorge Gonzalez, City Manager, explained that there were technical glitches that occurred with some of the candidate presentations and a second taping was done and is being aired now.

Mr. Herman corrected Mr. Gonzalez and stated that he did not need his permission to bring and show an American flag; he stated that the argument regarding the flags was started on purpose so that he would not concentrate on his speech. He stated *"he is coming to give a speech to be recorded, and here you start to aggravate me to look for a fight, I didn't come to have a fight, I come to give a speech, and on purpose it was done so my speech would look like somebody stupid who does not know what he is talking about."* He added that he was holding a press conference and respectfully requested to be recorded all over again, and if the City Commission did not agree to do the re-recording, they *"will hear from me."*

Robert Parcher, City Clerk, stated, for the record, that the Communications Department and the City Clerk's Office followed the rules that were outlined and that the City Commission passed.

Mr. Herman, addressing Jorge Gonzalez, City Manager, stated: *"Mr. Gonzalez, look at this guy... he is going to be the next Mayor of Miami Beach, if you like it or not; when I become Mayor of Miami Beach in two and a half weeks from today, I am the boss, I'm going to sit on that chair; you are going to follow my instruction and if not, you can leave, you can go look for another job, you are not going to be here, OK, you got my message, and you better remember it."*

David Kelsey stated his concerns regarding lack of hourly parking fees and stated that he was happy to hear Commissioner Libbin proposing a different way to do property taxes setting a rate based on square footage of land and buildings which can be separated for commercial and residential but have something that is fixed to avoid increased property taxes. He asked for support for Commissioner Libbin's proposal.

R9B2 Dr. Stanley Sutnick Citizen's Forum. (5:30 p.m.)

ACTION: Not reached.

R9C Discussion Regarding Designated Parking For Yellow Cabs On Bay Road.
(Requested by Commissioner Michael Góngora)

ACTION: Moved to Consent Agenda as C4F.

2:24:49 p.m.

R9D Discussion Regarding The Design Institute Final Report - June 2007.
(Requested by Commissioner Michael Góngora)

ACTION: The Final Report was given by Commissioner Góngora and Roberto DaTorre.

7:21:41 p.m.

R9E Discussion Regarding A Resolution Endorsing The U.S. Mayors Climate Protection Agreement, And Setting As Goals Of The City Of Miami Beach The Adoption Of Policies And Programs That Implement In Miami Beach Actions That Strive To Meet Or Exceed Kyoto Protocol Targets For Reducing Global Warming Pollution.

(Requested by Commissioner Michael Góngora)

ACTION: Discussion Held. Resolution No. 2007-26699 adopted. Approved by acclamation; 6-0; Absent: Commissioner Góngora.

Mr. Glickstein spoke.

7:40:25 p.m.

R9F Discussion Regarding A Request For Funding Of Security For The Holocaust Memorial.

(Requested by Commissioner Simon Cruz)

ACTION: Discussion held. Motion made by Commissioner Cruz to approve the \$10,000 for one year only and next year they will have to go through the process, seconded by Vice-Mayor Bower; Voice vote: 6-0; Absent: Commissioner Góngora.

Commissioner Cruz introduced the item to look for funds towards the security for the Holocaust Memorial as it falls within an area of scope that the City already provides security. He added that the Holocaust Memorial is synonymous with Miami Beach and the City should contribute.

Jorge Gonzalez, City Manager, asked if this was going to be a one-time thing.

Discussion held.

Vice-Mayor Bower agreed to do this for one time as supplemental for the security, but next year they have to go back through the event process.

3:57:45 p.m.

R9G Discussion Regarding A Resolution Transmitting To The Miami-Dade County Commission On Ethics And Public Trust Certain Campaign Literature For Evaluation And Investigation As To Compliance With The Miami-Dade County Ethical Campaign Practices Ordinance.

(Requested by Commissioner Michael Góngora)

ACTION: Discussion held. Resolution No. 2007-26700 adopted, in addition add to the transmittal letter the issue of the candidate preference poll emails. Motion made by Commissioner Góngora; seconded by Vice-Mayor Bower; Approved without objection; 7-0. **Legal Department to transmit to the Miami-Dade County Commission on Ethics and Public Trust.**

Commissioner Góngora introduced the item.

Jean Olin, Deputy City Attorney, explained that there is a provision in the voluntary portion of the Dade County Fair Campaign Practices Act that could address this issue.

Vice-Mayor Bower asked if the preference poll could be added to this item.

Discussion held.

Commissioner Gross asked Jean Olin if it is an ethics violation to disseminate a false poll.

Jean Olin, Deputy City Attorney, explained that under the Dade County Fair Campaign Practices Act one may not maliciously set forth false information and there is also a provision that states that one may not submit anonymous campaign literature; and these issues, the poll and allegations having to do with ethnicity and sexual orientation, do fall within the jurisdiction of the Dade County Ethics Commission.

Commissioner Gross suggested sending both items together, the campaign literature and the campaign preference poll for investigation.

Frank Kruszewski thanked Commissioner Góngora for bringing this to the City's attention.

- R9H Discussion And Referral To The Neighborhoods/Community Affairs Committee A Resolution Regarding Wheelchair Lift Maintenance.
(Requested by Vice-Mayor Matti Herrera Bower)

ACTION: Moved to Consent Agenda as C4G.

4:03:47 p.m.

- R9I The Committee Of The Whole Will Meet During Lunch Break In The City Manager's Large Conference Room To Discuss The City Manager's Performance Evaluation.
(City Manager's Office)

ACTION: Prior to adjourning to the Committee of the Whole meeting, Robert Parcher, City Clerk, announced the meeting.

Mayor Dermer called the meeting to order at 4:20 p.m., with all members of the Commission present. He stated that this has been an excellent year for Miami Beach and asked Jorge to review what is before the Commission.

Jorge Gonzalez, City Manager, referenced the Memorandum titled "Performance Evaluation for August 2006 – August 2007" which lists many of the accomplishments of the Administration over the past year. He also reviewed the recommended compensation package: a net ten (10%) of base salary to fund a 401(a) retirement plan and add one year to the term of the Employment Contract.

Commissioner Libbin stated that Jorge has done an incredible job, particularly when reflecting on all of the evaluation period accomplishments. He expressed his concern regarding the 10% contribution, not because he doesn't feel it was earned, but because of the property tax reduction and the message it sends, he would like a lower percentage.

Commissioner Cruz stated that Jorge has done a great job. He also stated that he agrees with Commissioner Libbin's comments.

Commission Steinberg stated that other city employees for a three year period will be or have received a 6%, 5%, and 4% COLA with a merit increase of up to 4%. The 10% is what other City employees are receiving.

Commissioner Gross stated that he judged Jorge's performance as exceptional and he deserves to be compensated for his many accomplishments. He added that he is also concerned about the message that will be sent and feels that 10% is a bit too high.

Commissioner Cruz also stated, because of the budget situation he believes 10% is also too high.

Jorge Gonzalez, City Manager, clarified that the 10% is not an increase in salary; the base salary will remain the same. He added that this is a contribution to his retirement plan.

Mayor Dermer stated that perhaps a longer severance package could be considered.

Commissioner Libbin suggested reducing the percentage to 5%.

Commissioner Gross stated that all the unions receive a 6%, 5%, and 4% COLA plus their annual merit increase.

Vice-Mayor Bower stated that Jorge has done a wonderful job as City Manager. He is always there when needed. Based on the discussions she recommended changing the 10% to 8%.

There was discussion regarding the 8% and it was determined that the 8% should be broken down as follow: 3% COLA and 5% merit increase in recognition for Jorge's outstanding work and leadership. In addition, one year is added to the term of the Employment Contract and it was recommended that he be given a golf membership at the Miami Beach Golf Club. The 8%, one year added to the term of the Employment Contract, and golf membership were approved by acclamation.

City Clerk's note – See Agenda item R7J.

R10 - City Attorney Reports

4:03:47 p.m.

R10A Notice Of Closed Executive Session.

Pursuant To Section 447.605, Florida Statutes, A Closed Executive Session Will Be Held During Recess Of The City Commission Meeting On October 17, 2007 In The City Manager's Large Conference Room, Fourth Floor, City Hall, For Discussion Regarding The Union Contracts.
(City Manager's Office)

ACTION: Closed Executive Session announced and held. The following members of the Administration were in attendance: Jorge Gonzalez, Ray Martinez, Linda Gonzalez and Ramiro Inguanzo attended the closed executive session.

Robert Parcher, City Clerk, announced the Client/Attorney Session.

Reports and Informational Items

A City Attorney's Status Report.

(City Attorney's Office)

ACTION: Written report submitted.

B Parking Status Report - July 2007.

(Parking Department)

ACTION: Written report submitted.

B1 Parking Status Report - August 2007.
(Parking Department)

ACTION: Written report submitted.

C Status Report On The Rehabilitation Of The Existing Building And Construction Of The New Fire Station No. 2.
(Capital Improvement Projects)

ACTION: Written report submitted.

D Informational Report To The Mayor And City Commission, On Federal, State, Miami-Dade County, U.S. Communities, And All Existing City Contracts For Renewal Or Extensions In The Next 180 Days. (Procurement)

ACTION: Written report submitted.

E Non-City Entities Represented By City Commission:
1. Minutes From The Metropolitan Planning Organization (MPO) Governing Board June 28, 2007 Meeting And Agenda For The October 4, 2007 MPO Governing Board Meeting.
(Requested by Commissioner Richard L. Steinberg)

ACTION: Written report submitted.

2. Minutes From The Miami-Dade County League Of Cities August 2, 2007 Meeting.
(Requested by Vice-Mayor Matti Herrera Bower & Commissioner Richard L. Steinberg)

ACTION: Written report submitted.

Robert Parcher, City Clerk, announced that the November 7, 2007 Commission Meeting will begin at 11 a.m.

End of Regular Agenda

Miami Beach Redevelopment Agency

**City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
October 17, 2007**

Chairman of the Board David Dermer
Member of the Board Matti Herrera Bower
Member of the Board Simon Cruz
Member of the Board Michael Góngora Absent
Member of the Board Saul Gross
Member of the Board Jerry Libbin
Member of the Board Richard L. Steinberg

Executive Director Jorge M. Gonzalez
Assistant Director Tim Hemstreet
General Counsel Jose Smith
Secretary Robert E. Parcher

AGENDA**1. OLD BUSINESS**

- A Report Of The Itemized Revenues And Expenditures Of The Miami Beach Redevelopment Agency's City Center District & South Pointe (Pre-Termination Carry Forward Balances) For The Month Of August 2007.
(Finance Department)

ACTION: Written report submitted.

2. NEW BUSINESS

- A A Resolution Of The Chairman And Members Of The Miami Beach Redevelopment Agency (RDA), Approving And Authorizing The Chairman And Secretary To Execute A Retail Lease Agreement Between The RDA And 1560 Collins Avenue, Inc., D/B/A Absolutely Suitable Of South Beach, In Connection With Suite #2 In The Anchor Shops, Located At 1560 Collins Avenue, Miami Beach, Florida; Said Lease Agreement Having An Initial Term Of Five (5) Years, Commencing Upon The Expiration Of The Current Remaining Term On March 19, 2008, And Ending On March 18, 2013, With An Option To Renew, At The RDA's Sole Discretion, For An Additional Five (5) Year Term, Subject To And Pursuant To The Terms And Conditions Set Forth In The Agreement.

ACTION: Resolution No. 553-2007 adopted. Motion made by Vice-Mayor Bower; seconded by Commissioner Cruz; Voice vote: 6-0; Absent: Commissioner Góngora. **Kent Bonde to handle.**

End of RDA Agenda

Meeting adjourned at 7:53:53 p.m.